

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 515 OF 2019

Revnnath s/o. Gangaram Shinde,
(C.No. 4620)
Age years, Occu. Nil.,
At present R/o. Open District Prison,
Paithan, Tq. Paithan, Dist. Aurangabad.

....Petitioner.

Versus

1. The State of Maharashtra
Through : The Deputy Inspector
General (Prisons), Central
Division, Harsool, Aurangabad.

2. The Superintendent of Open
District Prison, Paithan,
Tq. Paithan, Dist. Aurangabad.

....Respondents.

Mrs. Tina M. Tripathi, Advocate for petitioner (appointed).

Mr. M.M. Nerlikar, APP for respondents.

**CORAM : T.V. NALAWADE AND
 MANGESH S. PATIL, JJ.**
DATED : 30/04/2019.

ORAL JUDGMENT : [PER T.V. NALAWADE, J.]

1. Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2. The learned APP produced on record copy of notification
dated 16.4.2018 and also the copy of communication made by
District Superintendent of Prison showing that recommendation was

made to the Government in view of Rule 4(8) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules 1959, but as yet no decision is informed by the Government on that.

3. The aforesaid Rule shows that if there is political motive behind the crime, then the permission of the Government needs to be obtained first before granting furlough leave or parole. The submissions made and the record show that right from 2006 the petitioner was regularly released on furlough leave and parole. Every time he turned up on his own, though on two occasions he turned up late by few days. The submissions made do not show that anybody had made complaint of any kind against the petitioner that he had misused the liberty and he had threatened any witness.

4. This Court has seen the previous Rules also and they show that even prior to 2018 there was Rule 4(8) showing that the consent of the Government needs to be obtained first. In that case it can be presumed that in the past, such consent was given by the Government. As giving of such consent can be treated as routine affair and as there is no complaint received against the prisoner, petitioner, the Government ought to have taken decision on the proposal made immediately, but unfortunately that is not yet taken.

Due to all these circumstances, this Court holds that relief needs to be granted. In the result, the petition is allowed. Direction is given to the respondent authority to take decision on the furlough leave application of the petitioner immediately by presuming that the Government has given the consent. The fees of the learned counsel appointed for the petitioner is quantified as Rs.3,000/- and it is to be paid through High Court Legal Services Authority immediately within one week from today.

Rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/