

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

CRIMINAL WRIT PETITION NO. 528 OF 2019

Amar s/o. Ashok Sonwane,
Age 28 years, Occu. Nil,
Convict No. 10336,
R/o. At present Nashik Road,
Central Prison, Nashik.

....Petitioner.

Versus

1. State of Maharashtra
Through, Ministry of Home Department,
Mantralaya, Mumbai.
2. The Addl. Director General of Police and
Inspector General of Prison, Pune.
3. The Deputy Inspector General of Prison,
Aurangabad Central Prison, Aurangabad.
4. The Jain Superintendent Prisoner,
Nashik Road Central Prison, Nashik.

....Respondents.

Mr. Ravindra Wankhede, Advocate for petitioner (appointed).

Mr. S.B. Joshi, 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 proceeding is filed for relief of quashing and setting

aside the order made by respondent on 22.3.2018 by which the furlough leave application is rejected by the respondent. Direction is also claimed to release the petitioner on furlough.

3) This Court has seen the order and also the police report. In the order, there is mention that due to adverse police report furlough leave cannot be granted to him. The police report shows that the police felt the probability of visit of the petitioner to Jalgaon and then possibility of untoward incident at Jalgaon.

4) The previous record which is available with the report of the Superintendent of Jail Nashik shows that in the past, on two occasions he was released on death parole like on 14.5.2016 (up to 13.8.2016) and on 17.9.2018 (up to 25.9.2018). On both the occasions, no untoward incident took place and nobody complained against the petitioner. Thus, in the past, he did not misuse the liberty and on his own, he returned to jail after the period of parole was over. In view of these circumstances, this Court holds that it cannot be said that there was any basis for giving adverse police report. One more reason is given that appeal is pending in this Court. That cannot be a ground as it is not certain as to how much time will be required to dispose of the said appeal. The learned counsel for petitioner placed reliance on the observations made by

this Court in the case reported as **2003 CJ (Bom) 958 [Sarfuddin Aminuddin Vs. State of Maharashtra]**. In that case, the right of the prisoner to get furlough leave is considered. Though it is not absolute right, the reasons for rejecting must have the basis for the same. This Court holds that the order made against the petitioner is not justified in law and that needs to be set aside. In the result, the petition is allowed. The order of rejection of furlough leave of the petitioner is set aside. The said furlough application is allowed. The petitioner is to be released on furlough leave subject to usual conditions as per Rules. The fees of the learned counsel appointed for petitioner is quantified as Rs.3,000/- (Rupees three thousand). It is to be paid through High Court Legal Services Authority.

Rule is made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/