

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

CRIMINAL WRIT PETITION NO. 633 OF 2019

Shaikh Shafi Shaikh Mustafa,
Age Major, Occu. : Convict No.C/10299,
R/o. At present Nashik Road,
Central Prison, Nashikh.

....Petitioner.

Versus

1. The State of Maharashtra,
Through Secretary, Home Department,
Mantralaya, Mumbai - 32.
2. The Additional Director General of Police
and Inspector General of Prison &
Maharashtra State, Pune-1.
3. The Deputy Inspector General of Central
Prison, Aurangabad.

....Respondents.

Mr. V.H. Pathode, 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 application is filed for relief of quashing and setting aside the order made by respondent dated 15.3.2019 by which the application filed for furlough leave of the petitioner is rejected. The relief is also claimed for giving direction to the respondent to release the petitioner on furlough leave.

3. This Court has seen the communication made by the Superintendent of Prison with APP and with the communication, there is record like information about the petitioner. He has already undergone imprisonment of seven years and five months. Only adverse thing against him is adverse police report. Sub Divisional Officer of Kinwat Division has given report that there is possibility of breach of public peace if he is released on furlough leave. There is no basis for forming such opinion. Nobody has made complaint or has raised objection against the petitioner. This is the first time for getting furlough leave. In view of these circumstances, this Court holds that the order made cannot sustain in law. In the result, the petition is allowed. The order made by the respondent of rejection of furlough leave of the petitioner is set aside. The application filed for furlough leave is allowed. The petitioner is to be given furlough leave as per the Rules subject to routine conditions. The fees of the learned counsel appointed for petitioner is quantified as Rs.3,000/-. It is to be paid through High Court Legal Services Authority.

Rule made absolute in those terms.

[MANGESH S. PATIL, J.]

[T.V. NALAWADE, J.]

ssc/