

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 683 OF 2019

Kisan s/o Soma Rathod. (C-8098)  
Central Prison, Aurangabad.

... Petitioner

Vs.

1. The State of Maharashtra  
Through D.I.G., Prisons,  
Aurangabad.

2. The State of Maharashtra  
Through Superintendent Central Prison,  
Aurangabad.

... Respondents

...

Advocate for the Petitioner : Shri. Rupesh A. Jaiswal

Advocate for the Respondent Nos. 1 & 2 : Shri. R. D. Sanap

...

**CORAM :T.V. NALAWADE AND**  
**K.K. SONAWANE ,JJ.**  
**DATE : 28th JUNE, 2019.**

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

1] Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2] The proceeding is filed to challenge the order made by respondent dated 18.3.2019, by which the furlough leave application filed by the present petitioner is rejected.

3] This court has carefully gone through the reasoning given by the authority and also the police report. Rule 4(4), 4(10) and 4(20)

of the Maharashtra Prison Rules, 1979 are quoted for rejection of furlough leave. It is contended that there is adverse police report. On previous occasions, there was default in returning jail by the prisoner. In the opinion of the authority, he is likely to jump furlough. Submissions would show that the petitioner has actually undergone imprisonment for more than 20 years and he is placed in the category, under which he is expected to undergo imprisonment of 26 years. Only on two occasions, he committed default in returning to jail. On the first occasion, he was late by one day. On that occasion, he returned to jail on his own. On the second occasion, he was late by 53 days while returning to jail. On that occasion also, he returned to jail on his own. These grounds of default cannot be used for denial of furlough leave.

4] The other ground given for rejection is that, he is the member of Chhota Shakil Gang and if released, he may prove to be danger to the witnesses. This circumstance was there on previous occasions also, but in spite of that, he was released on furlough and no untoward incident was reported against the applicant. In view of these circumstances, this court holds that the reasons given by the respondent authority are unsustainable in law.

5] In the result, the application for furlough leave filed by the applicant is allowed. The impugned order is quashed and set aside. The applicant be released on furlough leave within fifteen days from today,

on usual terms and conditions. Rule made absolute in those terms.

Parties to act upon authenticated copy of this order.

**[K.K. SONAWANE]**  
**JUDGE**

**[T.V. NALAWADE]**  
**JUDGE**

grt/-