

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 729 OF 2019

Somnath S/o Baburao Mayrane,
Age : 57 Years, Occ. Nil,
R/o. Omerga, Tq. Omerga,
Dist. Osmanabad
At present in Nashik Central Jail,
Nashik Prisoner No. C/6309.

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through The Secretary,
Home Department, Mantralya,
Mumbai- 32.
2. The Additional Director General of Police
And Inspector General of Prisons,
Pune-1.
3. The Deputy Inspector General of Prisons
Central Department, Aurangabad
4. The Prison Superintendent,
Nashik Central Jail,
Nashik.

.. RESPONDENTS

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Advocate for the Petitioner : Mr. S.D. Bhosale (Appointed)
A.PP fore Respondent-State :” Ms. V.S. Choudhary

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**CORAM :T.V. NALWADE AND
 K.K. SONAWANE ,JJ.**

DATE : 3rd JUNE, 2019.

ORAL JUDGMENT (PER T.V. NALWADE, J.)

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

2. The present proceeding is filed for challenging the order passed by respondent by which the application for furlough which is filed by the present petitioner is rejected by the respondent.

3. The reasons is given that in the past when he was released on furlough he turned up late on many occasions. It is submitted that police report is also adverse and due to that reason the application is rejected. It was submitted that this rejection is in accordance with Rule 4(4) 4(6) and 4(10) of the Maharashtra (Furlough and Parole) Rules, 1979.

4. The submissions made and record show that in the year 2012 he had turned up late by 637 days and he was taken back to the jail after his arrest by the police. However, after that he was again granted furlough in the year 2014 and on that occasion he did not turn up and after 27 days of expiry period, he was arrested and he was brought back to the jail. The police report shows that aforesaid incidents are mentioned in the police report and there is also mention that the witnesses have taken objections to the release of the petitioner on furlough. The petitioner is convicted and sentenced for murder of his wife. It can be said that the reasons like objections of the witnesses was there right from beginning but in the year 2009 and from that year furlough was granted to him. In view of these circumstances, this Court

holds that the reasons given cannot be sustain in law, so the petition is partly allowed and the decision of the respondent is hereby set-aside with direction to the respondent, matter is to be again reconsider for grant of furlough leave and decision is to be taken within 14 days from today.

ORDER

- I. The petition is allowed.
- II. The order of rejection of furlough is set-aside.
- III. The application filed is to be again considered and decision on it needs to be taken within 14 days from today.
- IV. This decision is to be communicated to the petitioner.
- V. Rule is made absolute in those terms.
- VI. Authenticated copy is allowed to both the sides.
- VII. The fees of the appointed counsel is quantified @ Rs.3000/ and it is to be paid through the High Court Legal Services Sub Committee, Aurangabad

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

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

YSK/