

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

CRIMINAL WRIT PETITION NO.730 OF 2019

Balkrushna @ Pintya S/o. Raghunath Waghe
Age Major, Occu. Nil, Convict No. : C-77,
At present in Jail
(Nashik Road Central Prison, Nashik)

.. Petitioner

Versus

- 1 The State of Maharashtra
Through The Secretary, Home Department,
Mantralaya, Mumbai - 400 302
Maharashtra.
- 2 The Additional Director General of Police,
State of Maharashtra, Pune, Maharashtra
- 3 The Superintendent,
Nashik Central Jail, Nashik.
- 4 The Deputy Inspector General of Police (Jail)
Central Department, Central Region,
Aurangabad, District Aurangabad,
Maharashtra.

.. Respondents

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Mr. Nikhil Jaiswal, Advocate for the Petitioner (Appointed).
Mr. D. R. Kale, APP for the respondents - State.

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

DATED : 4th 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 petition is filed to challenge the order passed by the respondent Additional D.G.P. And I.G. Prison, Pune, dated 06-02-2019, by which, the request of petitioner to release him on furlough came to be rejected.

3. For rejection, ground is mentioned that there is an adverse police report against the petitioner. It is also mentioned that as there is no vested right in convict / prisoner, furlough leave is not granted. The

submissions made and the report submitted by learned APP show that in the year 2012 furlough was granted to the petitioner and he was released. He turned up in time. No untoward incident was reported on that occasion. The petitioner has been behind bars as convict for more than 10 years and 9 months. In the past, no untoward incident had taken place. In spite of that, the concerned police have taken objection on the ground that there is possibility of danger to the life of some witnesses from the present petitioner. In the past, the petitioner availed furlough about six years back, when he was afresh convict. In view of these circumstances, the reasons given by the authority about adverse police report cannot sustain in the eye of law. There is no basis to refuse his release on furlough for adverse police report. So, the petition deserves to be allowed. The order made by respondent is liable to be set-aside. Hence, the order :-

ORDER

1. The petition is allowed.
2. The order of rejection of furlough is set-aside.
3. The petitioner be released on furlough subject to usual conditions. Pay Rs.3000/- to the appointed counsel by the office of High Court Legal Services Authority, Sub-Committee, Aurangabad.
4. This decision is to be communicated to the petitioner.
5. Rule is made absolute in those terms.
6. Authenticated copy is allowed to both the sides.

[K. K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE