

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

Criminal Writ Petition No.732 of 2019

* Dashrath s/o Baburao Birajdar
Age Major,
Occupation : Convict No.C-11609,
R/o At present Nashik Road Central
Prison, Nashik. **.. 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.**

Shri. Vaibhav G. Deshmukh, Advocate, for petitioner.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for
respondent Nos.1 to 3.

**Coram: T.V. NALAWADE &
K.K. SONAWANE, JJ.**

Date: 3 JUNE 2019

ORAL JUDGMENT :

1) Rule, rule made returnable forthwith. By consent heard both the sides for final disposal.

2) The petition is filed to challenge the order of the respondent of rejection of furlough. This would be the first time when the petitioner would be released on furlough. Learned Additional Public Prosecutor submitted the application is rejected on the ground that police report is adverse. The reason given shows that the witnesses who are parents and relatives of the deceased have taken objection by contending that there would be danger to the life of the kid of the petitioner who is aged 4 years.

3) It appears that it was a matter between husband and wife though the petitioner is convicted and sentenced for offences punishable under sections 302, 307 etc. of Indian Penal Code. There is no other reason given for rejection of furlough. As it would be the first time for the petitioner to get furlough it would not be proper to go with presumption that he would cause harm to the

witnesses or to his own child if he is released on furlough. Some usual conditions can be put to take care of the apprehension.

4) In the result, the petition is allowed. The order made by the respondent dated 6-2-2019 is hereby set aside. The application filed by the petitioner is hereby allowed. He is to be released on furlough on usual terms and conditions. The petitioner shall not enter the place where the prosecution witnesses are living at present. Copy of the order is to be sent to the petitioner through jail authority. Fees for the counsel appointed is quantified at Rs.3000/-. Rule is made absolute in those terms.

Sd/-
(K.K. SONAWANE, J.)

Sd/-
(T.V. NALAWADE, J.)

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