IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

916 CRIMINAL WRIT PETITION NO.765 OF 2019

Shri. Kailas S/o. Waman Sonawane,
Age 43 years, Occu. Prisoner,
R/o. Bhadgaon, Tal. Bhadgaon, Dist. Jalgaon,
At present Central Prison, Nashik Road,

Versus

1. The State of Maharashtra,
Through the Superintendent,
Central Prison Nashik Road, Nashik,
Tal. and Dist. Nashik.

2. Central Deputy Inspector General of Prison,
Aurangabad, Tal. And Dist. Aurangabad.

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Mr. R. V. Ghayal, Advocate (Appointed) for Petitioner- Through Jail.
Mrs. V. S. Chaudhari, APP for Respondents.

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CORAM : T.V. NALAWADE AND
K.K. SONAWANE ,JJ.
DATE : 7th JUNE, 2019.

JUDGMENT :- (PER : T. V. NALAWADE, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of both sides.

2] The petitioner has filed this petition, to challenge the order made by the respondents thereby refusing to release the petitioner on personal bond and cash surety of the amount and instead of giving cash surety of Rs. 5,000/- No other reason is given for not releasing the petitioner on furlough leave.

3] The particulars in respect of the petitioner are available and they show that he has already undergone imprisonment of 14 years and 2 months from 1998. He was released on furlough in the year 2009, 2016 and 2017. On all the 3 occasions, he turned up to jail on his own and only in the year 2016 he turned up late by one day. He was released on parole in the year 2012 and 2015 and on both occasions, he turned up in time on his own. There is no adverse police report. Considering the purpose for which surety bond is obtained and as the petitioner is ready to furnish cash security, this court holds that the authority ought to have exercised discretion and ought to have accepted the cash security of Rs. 5,000/-.

4] This court holds that the order made by the authority needs to be modified to enable the petitioner to avail furlough leave. In the result, the petition is allowed. The order made by the respondents is hereby modified. The petitioner is to be released on furlough leave on other usual conditions and on furnishing cash security of Rs. 5,000/- and giving personal bond of Rs. 5,000/-. Fees of the counsel appointed is quantified at Rs. 3,000/-, which is to be paid through the High Court Legal Services Authority, Sub-Committee, Aurangabad. Writ petition stand disposed of in above terms.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

grt/-