

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 767 OF 2019

Maroti S/o Gangaram Wakade
Age : 34 Years, Occ. Nil,
Presently Prisoner Convict No.C/10553,
Nashik Road, Central Prison,
Nashik.

... PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Department of Home Affairs,
Mantralaya, Mumbai 400032
2. The Divisional Commissioner, Nashik
Nashik Road Central Jail, Nashik.
3. The Superintendent of Prison,
Nashik Road, Central Jail,
Nashik.
4. Sub Division Police Officer,
Kandhar Charge, Degloor
District Nanded
5. Deputy Inspector General of Prison,
Central Division, Aurangabad.
6. Additional Director General of Police
and Inspector General Prison and
Rehabilitation Center, Pune

..RESPONDENTS

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Advocate for the Petitioner : Miss. Harshita M. Manglani
(Appointed)

A.PP fore Respondent-State : Mr. D. R. Kale

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

DATE : 13th 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 petitioner is challenge the order of respondent by which the application for furlough came to be rejected on 01.04.2019. The reasons given by the respondent for rejection of the petitioner application are as follows :-

- (I) There is adverse police report against the petitioner.
- (II) There is possibility of breach of peace.
- (III) The surety may not be able to control the prisoners.
- (IV) The prisoner may not return to jail if he his released on furlough
- (v) The prisoner has no vested right to get furlough.

3. The submissions made and record show that the prisoner has been behind bars for more than two years now and it will be his first parole. Ordinarily, the witnesses make complaints of aforesaid nature against the prisoners. Care needs to be taken as it will be first furlough and some conditions can be put to take care of the fear of witnesses. Straightway only on the basis of objections of witnesses the furlough cannot be refused as it will defeat the purpose of the scheme of furlough and parole.

4. In the result, the petition is allowed. The order made by the respondent for rejection of the furlough is quashed and set-aside. The application filed four furlough is allowed. He is to be released on

routine conditions and in addition to that one more condition can be put like he is not to enter the village-town of the witnesses during the leave period. The decision is to be communicated to the prisoner. 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.

Authenticated copy is allowed to both the sides.

Rule is made absolute in those terms.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

YSK/