

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

CRIMINAL WRIT PETITION NO. 801 OF 2019

Rahul Limbaji Landge

(Convict No. 11234)

Age : 35 years, Occu.: Nil,

R/o : Nashik Road Central Prison,

Nashik.

... Petitioner

Vs.

1. The State of Maharashtra
Through Deputy Inspector General (Prison)
Central Division, Aurangabad.
District – Aurangabad.

2. Additional D. G. P. and I.G.,
Prison, Maharashtra State,
Pune – 01.

3. The Police Superintendent,
Nashik Road Central Prison,
Jail Road, Nashik.
(Copy to be served upon Public Prosecutor
High Court Bombay, Bench at Aurangabad)

...Respondents

...

Advocate for Petitioners : Mr. K. P. Rodge (appointed)
APP for Respondent No. 1 : Smt. D. S. Jape

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

DATE : 14th JUNE, 2019.

ORAL JUDGMENT :- [PER T.V. NALAWADE,J]

1] Heard. Rule. Rule made returnable forthwith. Heard finally
by consent of parties.

2] The petition is filed challenging the order made by the respondent authority by which the application filed for furlough leave is rejected.

3] The reason given is that there is adverse police report and so, as per Rule 4(4) of the Rules of 1979, the petitioner cannot be released on furlough leave.

4] Submissions made in the report show that objection is taken by the Committee of villagers and witnesses that there may be danger to the life of witnesses and hence, the petitioner may not be released on furlough leave. Submissions show that it will be the first time that the petitioner will be released on furlough leave. It appears that in view of the decision given by this court in appeal, the acquittal was converted conviction and he was taken in custody on 17.4.2017. He was acquitted by the Sessions Court, so, from the date of acquittal, he was out of jail for a period of 17 months, but no untoward incident took place during that period. This circumstance cannot be ignored. Only because witnesses are taking objection to release the petitioner on furlough leave, the application cannot be rejected. Considering the purpose behind the scheme of furlough leave, this Court holds that reason given for rejection of furlough leave to the petitioner is not sustainable in law.

5] In the result, the petition is allowed. The order of the respondent rejecting furlough leave to the petitioner is hereby quashed and set aside. The application for furlough leave filed by the petitioner is allowed. He is to be released subject to usual conditions. 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.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

grt/