

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

CRIMINAL WRIT PETITION NO. 802 OF 2019

Gajanan Shankarappa Satbhai (C-11908)

Age 42, Occu. Nil,

Nashik Central Prison, Nashik,

Tal. & Dist. Nashik.

...Petitioner

Vs.

1. The State of Maharashtra and another

2. Jail Authority

Through Inspector General of Prison Nashik.

3. Deputy Inspector General of Prison,

Aurangabad, Tal and Dist. Aurangabad

4. Addl. Director General of Police and

Inspector General of Prison, Pune.

Tal. Dist. Pune

... Respondents

...

Advocate for Petitioner : Ms. Pratibha B. Khanderao (appointed)

APP for Respondents: Shri. A. S. Shinde

...

**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 present petition is filed challenging the order of rejection made by the respondent authority by which furlough leave is refused to the petitioner.

3] We have carefully gone through the reasons for refusal of furlough leave. Reason given is that there is adverse police report. This court has gone through the adverse police report which is supplied by the learned APP. It is mentioned in the police report that there may be danger to the life of the witnesses and the petitioner may not return to jail on his own, if he is released on furlough leave. Submissions made shows that the petitioner has been behind bars for about 4 years and he is eligible for furlough. This will be the first occasion that he will be out of jail after conviction. Only because, some witnesses had taken objection, it cannot be said that the petitioner will create some problem for some witnesses. Some conditions can be put on the petitioner in that regard to take care of the apprehension of the witnesses. Considering the purpose behind the scheme of furlough leave, this court holds that he needs to be released on furlough leave. The learned counsel for the petitioner placed reliance on some observations made by the Nagpur Bench in Criminal Writ Petition No. 196 of 2017 with Criminal Writ petition No. 97 of 2017. In that matter, Arun Gawali was granted furlough leave even though there was adverse police report against him.

4] 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/