

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.807 OF 2019

Balkrushna @ Pintya S/o Raghunath Waghe

Age : Major years; Occ: NIL

Convict No. : C-77

At present in Jail (Nashik Road Central Prison, Nashik)

... Petitioner

Vs.

1. The State of Maharashtra
Through,
The Secretary, Home Department,
Mantralaya, Mumbai 400 032
Maharashtra
2. The Additional Director General of Police,
State of Maharashtra,
Pune. Dist.: Pune, Maharashtra.
3. The Jail Superintendent
Nashik Central Jail, Nashik
4. The Dy. Inspector General of Police (Jail)
Central Department, Central Region, Aurangabad
Dist. : Aurangabad.
Maharashtra.
[Copy to be served on – Office of the
Public Prosecutor, The High Court of Judicature
Of Bombay, Bench at Aurangabad]

... Respondents

...

Advocate for Petitioner : Shri. Nikhil Jaiswal (appointed)

APP for Respondent : Shri M. M. Narlikar

CORAM :T.V. NALAWADE AND
K.K. SONAWANE ,JJ.
DATE : 14th JUNE, 2019.

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

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 for furlough leave filed by the petitioner is refused. This court has carefully gone through the reasoning given by the authority. There is adverse police report and application is refused by mentioning Rule 4(4) of the Maharashtra Prison Rules, 1979.

3] The adverse police report is showing apprehension that there may be danger to the life of the witnesses. The petitioner has been behind bars for more than 4 years and 7 months. This will be first time when he will be released on furlough leave. The learned counsel for the petitioner has placed reliance on the observations of the Bombay High Court in **Criminal Writ Petition No. 34 of 2016 (Atul Kewalram Shende Vs. State of Maharashtra and Ors.)** and in the matter of **(Sanjay Kisan Kadse Vs. State of Maharashtra & Ors.) 2004 (1) Bom C.R. (Cri.) 758.**

4] Considering the scheme of furlough leave and the purpose behind furlough leave, and that this will be first occasion for the petitioner to be released on furlough leave, this court holds that opportunity needs to be given to the petitioner to prove that he is no more danger to the society. He has become eligible to get furlough leave and he can not be denied the benefit of furlough leave merely on the ground that some witnesses are objecting to his release.

5] In the result, the Criminal Writ Petition is allowed. The impugned order of rejection of furlough leave is hereby quashed and set aside. The petitioner is to be released on usual terms and conditions. Fees of the counsel appointed are quantified at Rs. 3,000/- which is to be paid through the High Court Legal Services Authority, Sub-Committee, Aurangabad.

6] Rule is made absolute in above terms.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

grt/