

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

**CONTEMPT PETITION NO.382 OF 2019
IN
CRIMINAL WRIT PETITION NO.477 OF 2019**

Manoj s/o Bhimrao Chaudante,
Central Prison Nashik (At the
time order of this Hon'ble Court
dated 26.04.2019) At present
confined in Aurangabad Central
Prison

PETITIONER

VERSUS

1. Rajwardhan,
Inspector General Prisons,
Pune
2. Yogesh Desai,
Deputy Inspector General Prison,
Aurangabad
3. Anup Kumar Kumar
Superintendent Central Prison
Nashik

RESPONDENTS

Mr Rupesh A. Jaiswal, Advocate for the petitioner;
Smt Geeta L. Deshpande, A.P.P. for respondent/State

**CORAM : PRASANNA B. VARALE &
R.G. AVACHAT, JJ.**

DATED : 27th JUNE, 2019

ORAL ORDER:

Heard Mr. Jaiswal, learned Counsel appearing for the petitioner.

2. Issue simple notice to respondent No.2, making the same returnable forthwith. Learned A.P.P. waives service of notice for respondent No.2.

3. Learned A.P.P. placed on record the copy of the order passed by respondent No.2 - Deputy Inspector General of Prison, Aurangabad. Same is taken on record and marked 'X' for identification. Official from Central Prison, Aurangabad Mr. Irshad Sayyad, Jailor, Grade-II is present in this Court to provide instructions to learned A.P.P.

4. Mr. Jaiswal, learned Counsel for the petitioner submitted that this very order is served on the petitioner post filing the present contempt petition.

From perusal of the order dated 27th May, 2019 it seems that the authority by misreading the provisions of Bombay Furlough Rules passed the order dated 27th May, 2019. While granting leave for period of three week, the respondent authority i.e. respondent No. 2 imposed certain conditions. There cannot be any serious dispute on the condition Nos. 2 to 12 as they are only in consonance with the provisions of Rule-10 but for Condition No.1. There is a serious objection raised by Mr. Jaiswal, learned Counsel insofar as Condition No.1 is concerned and rightly so. The Condition No.1 directs the petitioner to give cash security of Rs.25,000/- along with a personal bond of Rs.25,000/- and then one surety executing bond of Rs.10,000/- and another surety executing bond of Rs.10,000/-. Bare perusal of Rule-10 shows that Condition No.1 imposed on the petitioner is in contravention to Rule-10.

Rule-10 of the Bombay Furlough Rules, 1959 reads thus :

"10. Conditions of release -

The Sanctioning Authority shall grant furlough to a prisoner subject to his executing a personal bond or giving cash security (the prisoners private cash and wages may be taken as cash security) in Form C appended to these rules and also subject to a surety executing a bond, in Form A appended to these rules, if so required. The release may further be subject to all or any of the following conditions:-

(1) that the said prisoner shall reside at Taluka in the District/Greater Bombay during the period of release on furlough and shall not go beyond the limits of the said District/Greater Bombay without the permission of the Assistant Commissioner of Police ... or Deputy Superintendent of Police concerned...or such Officer as the said Assistant Commissioner of Police....or Deputy Superintendent of Police..... may appoint in this behalf,

(2) that the said prisoner shall be of good behavior and shall not commit any offence

punishable by or under any law in force in India,

(3) that the said prisoner shall not associate with bad characters or lead a dissolute life,

(4) that the said prisoner shall, in case he proposes to change his religion during the period of furlough, give a minimum of seven days' prior intimation to the said Assistant Commissioner of Police/Deputy Superintendent of Police of the area as also the Superintendent of Prison from which he has been released, about such intention and he shall also furnish them with information regarding the new religion and the new name, if any, which he proposes to adopt,

(5) that the said prisoner will surrender himself to the Superintendent of the Prison from which he was released on the expiry of the period of furlough,

(6) that the said prisoner will report twice a week or as recorded by sanctioning authority to the Officer-in Charge Police Station during the period of furlough,

or

that the said prisoner shall, immediately on arrival at the place mentioned in (1) above, report at the Police Station nearest to the said place, and thereafter,

(7) that the said prisoner shall be de-barred from visiting.....(insert place) such as the place where the offence was committed for which the person was convicted or to restrict the movement of the prisoner,

(8) such other conditions that are imposed in the

furlough or parole release order (list.....)

5. Rule-10 specifies word 'or' between words to his executing a personal bond and giving cash security (prisoners private cash and wages may be taken as cash security).....

6. The scheme of the provision, thus, clearly shows that intention of the legislature is not to put double burden on the prisoner but it is only satisfaction to be arrived by the authorities i.e. either by way of accepting execution of personal bond or accepting cash security. It seems that the authority by misreading this provision fastened both the liabilities on the petitioner. Considering this very fact, we are of the opinion that the order passed by the authority i.e. respondent No.2 on 27th May, 2019 needs an interference at the hands of this Court so as to achieve the object of Rule and to serve the interest of justice.

7. Accordingly, the order of the authority dated 27th May, 2019 is partially modified and Condition No.1 is accordingly rectified by imposing condition on the petitioner of executing a personal bond of Rs.25,000/- and authority not to insist of executing of cash security of Rs.25,000/-.

8. With above observations, the contempt petition is disposed of.

Authenticated copy of this order be supplied to the parties.

[R.G. AVACHAT, J.]

[PRASANNA B. VARALE, J.]