

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 1089 OF 2019

Raviraj s/o Gururaj Rao,
Age: Major, Occ. Nil,
R/o at present Visapur Open Prison,
Tq. Shrigonda, Dist. Ahmednagar.

... **PETITIONER**

VERSUS

1. The State of Maharashtra.
2. The Deputy Superintendent
of the Open Prison Visapur,
Dist: Ahmednagar.
3. The Deputy Inspector General
of Police (Prison) Western Region
Yerwada, Pune.

... **RESPONDENTS**

...
Ms Sharda P. Chate, Advocate for Petitioner.
Mr. K. S. Patil, APP for all Respondents.

...

CORAM : **T. V. NALAWADE &
V. L. ACHLIYA, JJ.**

DATE : 30th July, 2019.

ORAL JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2 The proceeding is filed to challenge the order made by the Respondents by which the Respondents have asked the Petitioner to give surety for getting released on furlough leave. The order of furlough is made, but that is subject to condition that surety of Rs.2,000/- is given. It appears that the Petitioner is not able to give surety and that is why he is not released from jail. That is the only ground on which the present petition is filed. The learned counsel for Petitioner placed reliance on the observations made by the Full Bench of this Court in the case reported as **2011 CRI. L. J. 3263**, (*Dipak Sudhakar Wakalekar Vs. State of Maharashtra and Ors*). This Court has held that the provisions are enabling provisions and in proper cases discretion needs to be used by the authority. In the present matter, the submissions made and record show that the Petitioner has been behind bars from prior to 2009 and he was released on furlough leave from the year 2009 till 2018 on many occasions. On every occasion, he turned up to the jail on his own. The record also shows that the jail authority is of the opinion that there is no possibility that he will abscond and it is also opined that he has no tendency of committing crimes. In view of these circumstances, this Court holds

that the authority can accept cash security instead of surety and the Petitioner can be released. In the result, the following order is passed:

ORDER

- I. The petition is allowed.
- II. The authority is to release the Petitioner on furlough leave for which order is already made on his executing personal bond and on giving cash security in place of surety.
- III. Rule is made absolute in those terms.

[V. L. ACHLIYA, J.]

[T. V. NALAWADE, J.]

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