IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1626 OF 2019

Abbas s/o Rafiullah Shah
(C-5080), Open Prison, Paithan,
District Aurangabad **PETITIONER**

VERSUS

1. The State of Maharashtra,
through D.I.G., Prisons,
Aurangabad

2. The State of Maharashtra,
through Superintendent
(Open Prison), Paithan,
District Aurangabad **RESPONDENTS**

Mr. Rupesh A. Jaiswal, Advocate for the Petitioner
Mr. M.M. Nerlikar, A.P.P. for the respondents/State

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

DATE : 15th OCTOBER, 2019

ORAL JUDGMENT :

Rule. Rule made returnable forthwith and with the consent of both sides, heard for final disposal.

2. This Writ Petition is filed for quashing and setting aside the order dated 11th September, 2019 passed by respondent No.1, vide which the application submitted by the petitioner for grant of furlough

leave has been rejected for two reasons i.e. the police report is adverse and when the petitioner was earlier released on parole, he had surrendered to the prison 59 days late after completion of parole period.

3. The submissions made and the record produced by the learned A.P.P. before the Court show that the petitioner was released on furlough leave in 2016. After completion of furlough leave, the petitioner on his own surrendered to the prison. It appears that when the petitioner was released on parole in the year 2013, he surrendered the prison 59 days late after completion of the parole period. In view of his surrendering late by 59 days in 2013, the petitioner's application submitted in 2018 came to be rejected.

4. This Court does not wish to go into the reason for rejection in the year 2018. In the present matter, the ground given that there is adverse police report is not sufficient for rejection of furlough leave to the petitioner. Considering the scheme of furlough leave and the object behind it, such ground cannot sustain in law. The another ground that the petitioner had turned up late in the year 2013 is not available. From the record, it appears that the petitioner surrendered to

the prison only by 59 days and for that, the remission must have been deducted as a penalty. The petitioner is behind the bars for nine years and is in open prison. Considering these circumstances, furlough leave needs to be granted to the petitioner.

5. In the result, Criminal Writ Petition is allowed. The order dated 11th September, 2019 passed by respondent No.1 is quashed and set aside. The application submitted by the petitioner for grant of furlough leave is allowed. The petitioner be released on furlough leave within seven days from today, subject to usual terms and conditions. Rule is made absolute in above terms.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE

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