

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

Criminal Writ Petition No.1648 of 2019

* Shaikh Ayyub Shaikh Hiraji,
Age 45 years,
Occupation : Nil, Convict No.8618
R/o at present in Central Prison,
Aurangabad, Dist Aurangabad. .. **Petitioner.**

Versus

- 1) The State of Maharashtra.
- 2) The Deputy Inspector General of
Central Prison, Aurangabad.
- 3) The Superintendent of Central
Prison, Aurangabad,
District Aurangabad. .. **Respondents.**

Mrs. Bharati B. Gunjal, Advocate, for petitioner.

Shri. R.D. Sanap, Additional Public Prosecutor, for
respondents.

**Coram: T.V. NALAWADE &
S.M. GAVHANE, JJ.**

Date: 25th NOVEMBER 2019

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

- 1) Rule. Rule made returnable forthwith. Heard
both the sides by consent for final disposal.

2) The present proceeding is filed to challenge the order made by respondent No.2 by which the furlough leave application is rejected. The application is rejected on the ground that there is adverse police report. Police report shows that the surety by name Hasham Hussain Shaikh, resident of Jikthan, who is a nephew of the prisoner, may not be able to control the prisoner and he may not be able to bring the prisoner back to the prison when the leave period is over. During the course of arguments, learned counsel for the petitioner took this Court through the record showing that in the past, in September, the prisoner was released on parole and on that occasion Hasham Hussain Shaikh, resident of Jikthan, the same person was accepted as the surety.

3) The submissions made show that the prisoner is convicted for offence punishable under section 307 of the Indian Penal Code and he is eligible for furlough leave. Hardly few months are remaining and after that he will out of jail by completing the jail sentence. In view of these circumstances this Court holds that the authority ought to have granted furlough. In the result, following order.

4) The petition is allowed. The order dated 7th /11th September 2019 passed by respondent No.2 is set aside. The application for furlough leave is allowed. By accepting Hasham Hussain Shaikh, resident of Jikthan, Taluka Gangapur, as suety the petitioner is to be released on furlough leave. Other routine conditions may be imposed. This is to be done within 15 days from today. Rule made absolute in those terms. Authenticated copy is allowed to both the sides.

Sd/-
(S.M. GAVHANE, J.)

Sd/-
(T.V. NALAWADE, J.)

rs1