

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1666 OF 2019

Irun Ilchand Chavan (C-80)
Age : Major, Occ. Convict,
R/o. Open Prison Aurangabad .. PETITIONER

VERSUS

1. The State of Maharashtra,
Through Secretary Home Department
(Prison) Mantralaya Mumbai.
2. Deputy Inspector General of Police
(Prison) Central Region,
Aurangabad
3. Superintendent of Jail,
Open Prison Aurangabad ..RESPONDENTS

....
Advocate for the Petitioner : Mr. V.P. NARWADE
A.P.P for respondent State : Mr. D.R. KALE
....

CORAM : T.V. NALWADE AND'
S.M. GAVHANE,JJ.

DATE : 27-11-2019.

JUDGMENT(PER T.V. NALWADE, JJ) :-

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

2. The proceeding is filed for challenging the order passed
on furlough application. The application of the petitioner- prisoner

came to be rejected on 01.08.2019, on following grounds “-

- I) There is adverse police report.
- II) The name of surety is not mentioned, it cannot be ascertain as to whether surety is ready or not ready.
- III) In the year 2013, the prisoner had turned up late by 96 days when he was released on furlough.
- IV) There is no vested right to the prisoner to get furlough.

3. A photo copy of the order passed on 21.09.2017 by the respondent is produced on record which was in favour of the petitioner. This order shows that furlough of 28 days was sanctioned subject to condition like giving cash security of Rs. 15,000/- Personal Bond of Rs. 15,000/- and one surety who is relative of Rs. 15,0000 and one surety who is not relative of Rs. 15,000/-. When the order dated 21.09.2017, was made it was not mentioned that aforesaid grounds are there against the petitioner.

4. Ordinarily the police report in such cases are adverse as the witnesses oppose the release of the prisoner. Considering the purpose behind the scheme of furlough leave, such ground cannot be used by the authority for rejection of the furlough leave. The second ground that he had turned up late in the year 2013 when he was released on furlough leave cannot come in the way of the prisoner as this ground was must have been considered in the year 2017 by the respondent but in spite of that ground the prisoner was

granted furlough leave, though he could not give expected surety on that occasion.

5. The learned counsel for the petitioner submitted that the petitioner is not in a position to give surety. He submitted that in other cases, like **Criminal Writ Petition No. 808 of 2019 Arjun Zinga Ransing Vs. The State of Maharashtra and others** and in **Criminal Writ Petition No. 477 of 2019 Manoj Bhimrao Chaudante Vs. The State of Maharashtra and others** this Court had directed the respondents to release the prisoner on furlough leave and in the first case, direction was given to release by accepting cash security of Rs. 15,000/-. In the present matter also this Court holds that to enable the prisoner to show that he has improved his conduct, one opportunity needs to be given to him. The old incident of the year 2013 cannot be considered now, as in spite of that incident furlough leave was sanctioned in the year 20117. In the result, following order :-

ORDER

- I) Petition is allowed.
- II) The order of the respondents of rejecting the furlough leave application is hereby set-aside.
- III) The furlough leave application is allowed.
- IV) The prisoner-petitioner is to be released on furlough leave furnishing cash security of Rs. 15,000/- (Rs. Fifteen thousand)and on giving Personal Bond of Rs. 15,000/-

- V) The order is to be complied within 15 days from today,
other routine conditions may be imposed.

(S.M. GAVHANE, J.)

(T.V. NALAWADE, J.)

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