

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

37 CRIMINAL WRIT PETITION NO. 1750 OF 2019

Ganesh Narayan Kindre [C-5065] PETITIONER
Age : Major, Occ. Convict,
Resident of District Open Prison
Paithan, Taluka Aurangabad,
District Aurangabad

V E R S U S

- 1] The State of Maharashtra, RESPONDENTS
Through Secretary Home
Department, [Prison],
Mantralaya, Mumbai – 05
- 2] Deputy Inspector General of
Police [Prison], Central Region,
Aurangabad
- 3] Superintendent of Jail,
Open Prison Paithan, Taluka
and District Aurangabad

...

Mr. V.P. Narwade, Advocate for the petitioner
Mrs. V.N. Patil/Jadhav, APP for respondents-State

...

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATE : 9th December, 2019

ORAL JUDGMENT [PER : T.V. NALAWADE, J.] :

Rule. Rule made returnable forthwith. Heard both the sides for final disposal.

2. This proceeding is filed for directing respondent No.3 to grant furlough leave to the petitioner. The application is rejected on following grounds;

i] that there is adverse police report and so the application cannot be granted as per rule 4 [4] of the Prisons [Bombay Furlough and Parole] Rules, 1959 and

ii] that he is sentenced for the offence punishable under Section 364 of the Indian Penal Code.

3. This Court has carefully gone through these rules. The Rule 4 [1] and [13] of the Prisons [Bombay Furlough and Parole] Rules, 1959 show that when there is offence of kidnapping for ransom then the prisoner needs to remain behind bars in respect of conviction given for kidnapping and ransom and when that period is over, he can get furlough leave.

4. The submissions made show that the petitioner is behind bars since 2009 and this is the first occasion when he will be coming out of jail on

furlough leave. The police report is submitted for rejection of leave on the ground that there will be danger to the witnesses if he is released on furlough,

5. In every case, the witnesses take such objection. Considering the purpose behind the above referred furlough rules, proper conditions can be imposed and furlough leave can be granted and on such grounds furlough cannot be rejected. Opportunity needs to be given to prisoner to show that he is no more danger to the society.

6. In the result, Criminal Writ Petition is allowed. The order of the respondent of rejection of furlough leave stands quashed and set aside. The application filed for furlough is allowed. The applicant be released on furlough leave on usual terms and conditions within 15 days from today.

8. Rule made absolute in above terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)