

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

CRIMINAL WRIT PETITION NO. 1852 OF 2019

Janardhan s/o Dagdu Gorkhude (C-8245)

Age: Major, Occu: Nil,

R/o At present Aurangabad Open Prison,

Dist. Aurangabad.

... **Petitioner**

Versus

1. The State of Maharashtra,

2. The Deputy Superintendent
of the Open Prison Aurangabad
Dist. Aurangabad.

3. The Deputy Inspector General
of Police Central Prison at Aurangabad,
Dist. Aurangabad.

... **Respondents**

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Mrs. Chate Sharada P, Advocate for the Petitioner.

Mrs. V.S. Choudhari, APP for the Respondent-State.

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

DATE : 28.11.2019

ORAL JUDGMENT :-

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

2. The present proceeding is filed to challenge the order made by the respondents nos.2 and 3 by which the furlough leave application filed by the petitioner prisoner is rejected. The submissions made and the record show that the petitioner is behind the bars as a life convict for the offence

punishable under Section 302 of the I.P.C. and he has completed the jail sentence of more than seven years. He is eligible for getting furlough and this will be the first time when he will be coming out of the prison. There is another ground given for rejection that there is a possibility that he may jump furlough. Submissions made show that the petitioner is kept in Central Prison. Adverse police report is generally given on the basis of statements of the witnesses. When the case is decided there is no question of tampering the witnesses. The witnesses will always take objection to such release.

3. This will be the first time when the prisoner will be coming out of jail on furlough leave after completing seven years imprisonment. Considering the purpose behind the scheme of furlough leave, this Court holds that an opportunity needs to be given to the prisoner-petitioner to show that he is no more danger to the society. Unless such opportunity is given it cannot be ascertained as to whether he is danger to the society. Both the grounds under Rule 4(4) and 4(20) are not sustainable.

4. In view of the aforesaid circumstances. The petition is allowed. The order made by the respondents is hereby set aside. The petitioner is to be released on furlough leave on usual terms and conditions. It is to be done within fifteen days from today. Authenticated Copy to both the sides.

[S.M. GAVHANE, J.]

[T.V. NALAWADE, J.]