

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1684 OF 2018

Shrikrishna s/o Mahado Pedham,
Age : Major, Occu. Nil,
R/o Poha, Tq. Karanja,
District Washim, at present
Visapur Open Prison,
Tq. Shrigonda, Dist. Ahmednagar

PETITIONER

VERSUS

1. The State of Maharashtra
2. The Deputy Superintendent
of the Open Prison, Visapur,
District Ahmednagar
3. The Deputy Inspector General
of Police (Prison),
Western Region, Yerwada,
Pune

RESPONDENTS

Ms. Sharda P. Chate, Advocate for the petitioner
Mr. S.B. Yawalkar, Additional Public Prosecutor
for the respondents.

CORAM : S.S. SHINDE AND
R.G. AVACHAT, JJ.

ORDER RESERVED ON : 8th JANUARY, 2019
ORDER PRONOUNCED ON : 21st JANUARY, 2019

ORDER (PER : R.G. AVACHAT, J.) :

By this Writ Petition under Articles 226 and
227 of the Constitution of India, the petitioner seeks
direction to respondent No.2 to release him on

furlough leave for 15 days.

2. Heard learned counsel appearing for the petitioner and learned Additional Public Prosecutor (A.P.P.).

3. The petitioner is a life convict. He has been undergoing life imprisonment since 1st April, 2006. Even before thereto, he had been behind the bars pending the trial in Sessions Case No.122 of 2004. On more than five occasions, the petitioner had been released on furlough leave inspite of there having been objection by the police to his release.

4. The petitioner again moved an application for his release on furlough. The concerned Authority has rejected his application. The appeal preferred by him against the order of rejection of his application for furlough did met with the same fate. Hence, the present Writ Petition.

5. The learned counsel for the petitioner made submissions on the lines of the averments made in the petition.

6. The learned A.P.P. would, on the other hand,

submit that the request of the petitioner for his release on furlough was turned down in his own interest. The police machinery had perception of threats to the petitioner's life at the hands of the family members of the deceased, whose murder the petitioner committed. Moreover, the offence for which the petitioner has been undergoing sentence was of kidnapping of a child for ransom.

7. We are not in agreement with the reasons for rejection of the petitioner's application for grant of furlough. The petitioner has undergone little over fourteen years of imprisonment. On over five occasions, he had been released on furlough. Presently, he is in Isapur Open Prison. The same indicates that his conduct is good. It has been averred in the petition that on previous occasions as well, the concerned Police Station had objected his release on furlough on the very ground of threat perception to the life of the petitioner. Nothing has happened on his release on furlough. It, therefore, appears that the reason cited for rejection of application for furlough is unfounded. The prisoner, who has been undergoing sentence for the offence punishable under Section 364-A of the Indian Penal Code

(IPC), has not been disqualified for release on furlough. The petitioner has not been convicted for the said offence. In fact, the offence under Section 364-A of IPC was not on the Statute book when the petitioner committed the offence for which he has been convicted.

8. In the aforesaid factual backdrop, the Authorities concerned were not justified in refusing the release of the petitioner on furlough for fifteen days. We are, therefore, inclined to interfere with the impugned order. In the result, the Writ Petition succeeds.

9. Respondent No.2 is hereby directed to release the petitioner on furlough for a period of fifteen days. The Writ Petition accordingly stands allowed and disposed of.

[R.G. AVACHAT]
JUDGE

[S.S. SHINDE]
JUDGE