

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.716 OF 2019

Limbaji Manohar Rathod

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

Prosper D'Souza, Advocate for the Petitioner.

Mrs.P.P. Shinde, APP for the Respondent – State.

.....
**CORAM : B. P. DHARMADHIKARI AND
PRAKASH D. NAIL, JJ.**

DATE : MARCH 18, 2019.

P.C.:

A convict whose furlough application has been rejected on 14th September, 2018, by Competent Authority and Appeal against it has been rejected on 14th November, 2018, questions the same. Learned counsel points out that furlough leave was rejected in 2017, and, that rejection was subject matter of Criminal Writ Petition No.1909 of 2018. Division Bench of this Court on 2nd May, 2018, though refused to entertain that request, has observed that his fresh application for furlough should be considered a fresh keeping in view all factors and his conduct in prison in last few years.

2 Submission is that, conduct of petitioner is good and the local Authority also have not objected to his reliefs.

3 Learned APP on the other hand points out that the Superintendent of Prison at Yerwada has opposed reliefs and because of late reporting, name of petitioner has been removed from remission register permanently.

4 The communication by which his furlough request was forwarded by the Superintendent of Prison at Yerwada mentions that conduct of prisoner is good. The Assistant Police Superintendent, Tuljapur Sub-Division has on 3rd August, 2018, submitted a favourable recommendation. Assistant Police Inspector of concerned police station has verified the position of relatives, family and again submitted a positive recommendation.

5 However, on 14th September, 2018, DIG Prisons has rejected the request on the ground that there was adverse report by Superintendent of Yerwada prison and there is every likelihood of petitioner absconding.

6 We find that on earlier two occasions, when petitioner reported late by 13 days or 468 days, he has returned back voluntarily and, was not brought back after arresting him. Last return was in the year 2005. Thereafter he has not been released.

7 2017 rejection of his furlough leave has been looked into by this Court on 2nd May, 2017, when liberty to apply a fresh was given.

8 In impugned order dated 14th September, 2018, the adverse report of Superintendent of Yerwada Central jail as mentioned appears to be an error. Records do not show any such adverse report. On the contrary, the prison Authorities have submitted a positive report.

9 In this situation, considering the entire state of affairs, we are inclined to direct the respondents to release him on furlough after obtaining necessary bonds and undertaking from him and his relatives. Petitioner shall after his release immediately report to local police station and stay within its area during entire furlough period. He shall report to that police station after every seven days and also on a day previous to his reporting back to Yerwada Central Prison. Failure to report on any such day shall be treated as an adverse circumstance and shall entitle the respondents to take him in custody forthwith.

10 With these directions, we allow this Writ Petition and dispose
of the same.

11 No costs.

12 Registry to forward copy of this order to DIG Western Region,
Pune.

(PRAKASH D. NAIK, J.)

(B.P. DHARMADHIKARI, J.)