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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.961 OF 2019

Brond @ Arun Suresh @ Ashok
Gaikwad ...Petitioner
vs.
The State of Maharashtra ...Respondent

None for the Petitioner
Mr.V.V.Gangurde, APP for the respondent-State

CORAM : A.S.OKA, &
A.S.GADKARI, JJ.
DATE : MARCH 4, 2019

P.C.:

1 Rule. The learned APP waives service for the respondent. Forthwith taken up for final disposal.

2 The petitioner applied for grant of furlough under the Prisons (Bombay Furlough and Parole) Rules, 1959 (for short "the said Rules of 1959"). The Competent Authority has rejected the application made by the petitioner only on the ground of disqualification mentioned in sub-Rule 4 of Rule 4 of the said Rules of 1959 on the basis of alleged adverse police report. An appeal preferred by the petitioner before the Appellate Authority was rejected on the same ground. We have perused the adverse police report submitted by the Additional Superintendent of Police. The report records that the concerned Police Station has found the surety

offered by the petitioner to be proper. The report is based on only an apprehension that if the petitioner is released on furlough, he may not be controlled by the surety. The ground of disqualification under sub-Rule 4 of Rule 4 specifically provides that a person is disentitled to furlough if the police report discloses that there is a likelihood breach of of peace and tranquility. No such observation is made in the police report. Hence, the ground on which the application for furlough is rejected cannot be sustained. We may note here that the nominal roll signed by the Jail Authorities records that the grant of furlough is recommended.

3 Accordingly, we pass the following order:

(I) The impugned orders dated 12th June 2018 and 31st December 2018 passed by the Competent Authority and Appellate Authority respectively are quashed and set aside;

(II) We direct the Competent Authority to pass a fresh order on the application for grant of furlough made by the petitioner and shall grant furlough on appropriate terms and conditions;

(III) The office of the Public Prosecutor to forward a copy of this order to the Competent Authority;

(IV) The fresh order shall be passed within a period of four weeks from the date on which this order is communicated to the Competent Authority;

(V) Rule is made absolute on above terms;

(VI) A copy of this order shall be forwarded to the petitioner through the concerned Jail Superintendent.

(A.S.GADKARI,J.)

(A.S.OKA,J.)