

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1144 OF 2019

Jitendra Fakirchand Rana @ China

Petitioner

versus

The State of Maharashtra

Respondents

Ms.Payoshi I/by Dr.Yug Mohit Chaudhary for petitioner.
Mrs.P.P.Shinde, APP, for State.

CORAM : B.P.DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.

DATE : 26th March 2019

PC :

1. Heard. Learned counsel for petitioner states that she will file her vakalatnama during the course of the day. The statement is accepted.

2. The furlough leave has been declined on 3rd November 2018 and appeal against it has been rejected on 10th January 2019. The reason given is bar under Clause 4(4), (6) and (20) of the Parole and Furlough Rules, 1979 ('the said Rules').

3. After hearing respective counsel we find that the petitioner has put in more than seven years in jail inclusive of remission for conviction in CR No.410 of 2011 under Sections 302, 34, 354, 509, 504, 506(2) of IPC with other provisions. He has not been released either on furlough or parole at any time.

4. Rule 4(4) of the said Rules envisages adverse police report and sub-rule (6) of Rule 4 envisages unsatisfactory work or conduct of prisoner. Here there is no such adverse report or work and conduct. Clause (20) of Rule 4 of said Rules necessitates opinion of police or police authorities that prisoner is likely to jump parole.

5. The verification exercise reveals that Oshiwara Police Station has on 3rd July 2018 sent a communication informing the authorities that against the petitioner or his guarantor there is no offence registered, however, they have objected to his release on furlough. Police have pointed out that Crime No.410 of 2011 is registered against the petitioner. It is the crime in which he is undergoing imprisonment. Therefore, respondents do not have any other material except apprehension in their mind that the petitioner may jump furlough and may not return to prison.

6. Learned APP, during arguments, submitted that the victim and witnesses also reside in same area.

7. The furlough arrangement has been statutorily made so as to enable the convict to maintain contacts with his family and society. We, therefore, find that the reasons assigned are unsustainable. The respondents while releasing the petitioner on furlough leave can impose appropriate conditions including one requiring him and his relatives to report at a particular police station at regular intervals.

8. We, therefore, quash and set aside the impugned orders and direct the respondents to obtain necessary bonds/ undertakings incorporating suitable conditions from the guarantor and from the

petitioner. This exercise shall be completed on or before 16th April 2019 so as to enable the petitioner to avail furlough leave thereafter. The petition is allowed in these terms and disposed off.

(PRAKASH D. NAIK, J.)

(B.P.DHARMADHIKARI, J.)

MST