

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

WRIT PETITION NO.1384 OF 2019

Shabbir Shaha Gafoor Shaha

...Petitioner

vs.

The State of Maharashtra

...Respondent

Mr.Amit A. Gharte for the Petitioner.

Mr.Irfan Sait, APP for the Respondent/State.

Mr. P.M. Nagawade, Jailor, Nashik Central Jail.

**CORAM : B. P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.
DATE : 11/06/2019.**

P.C.:

. Petitioner was absconding for 3697 days after he was released on furlough in the year 2002. He was required to be arrested and brought back. In this situation, by the impugned order dated 16/10/2018-20/10/2018 his furlough application has been rejected.

2. Learned advocate for the petitioner states that for late reporting the petitioner is already punished. He also relies upon the judgment dated 21/2/2018 delivered at Aurangabad by this Court in Criminal Writ Petition No.71/2018 to urge that there, in similar circumstances the furlough leave is allowed to the prisoner Sherkhan.

3. Learned APP is strongly opposing the intervention by this Court. He submits that explanation furnished was found to be plausible by Aurangabad Bench and period for which Sherkhan was absconding is much less.

4. Learned counsel (appointed) states that here the prisoner had pointed out that when he was released on furlough leave in the year 2002 and was required to report back, his wife and children who were in precarious condition threatened to commit suicide and hence he could not report back.

5. Perusal of the judgment delivered by Aurangabad Bench shows that after Sherkhan was released on furlough, his wife expired leaving behind 4 minor daughters. He pointed out that as there was nobody to look after those minor daughters, he was required to remain with them. He was absconding for about 677 days. Division Bench at Aurangabad found the circumstances sufficient to condone the lapses.

6. Here, alleged threat of suicide being given by wife or children cannot be seen as sufficient excuse. Possibility of similar threat after the applicant is released again, when he is required to report back, cannot be ruled out.

7. In this situation, we find no perversity in the impugned order. Petition is rejected. Order be communicated to the prisoner in jail.

(SANDEEP K. SHINDE, J.)

(B. P. DHARMADHIKARI, J.)