

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

CRIMINAL WRIT PETITION NO.1999 OF 2019

Randhir @ Nikhil Ashok Singh	...	Petitioner
Versus		
State of Maharashtra		
And Others	...	Respondents

.....

Mr.M.N. Gawankar for the Petitioner.

Ms. M.H. Mhatre, APP for the State.

.....

**CORAM : B.P. DHARMADHIKARI AND
SMT. SWAPNA JOSHI, JJ.**

DATE : 4 JUNE 2019

P.C. :

. Heard learned Counsel for the Applicant and learned APP.

2 Perused impugned order and a copy of police report dated 19 November 2018, made available for perusal of Court by learned APP. That copy is taken on record as Exhibit 'A'.

3 The Petitioner is in jail since the date of his arrest on 30 June 2010. He has been punished under various sections on 30 May 2018.

4 Since his arrest, he has never been released, either on parole or furlough. His first application has been rejected on 31 December 2018 by Deputy Inspector of Prison and appeal against which is dismissed on 11 March 2019 by Addition D.G. and I.G. Prison.

5 Learned Counsel for the Applicant submits that the impugned order shows total non-application of mind, in as much as, the Applicant was never released earlier and hence apprehensions that he would indulge in similar crime or would jump furlough and may not return back are erroneous.

6 Learned APP states that the prisoner is found to be a member of gang, known as 'Bharat Nepali Gang' and hence, apprehensions expressed by authorities are not ill founded. He draws support from police report at Exhibit 'A' mentioned *supra*.

7 Police report on first point, mentions that prisoner has not furnished a medical certificate in support of parole. However, while expressing opinion on it, it is recorded that along with application for furlough, no medical certificate is annexed.

8 The release on furlough, does not require any medical certificate. Other findings in police report show that there is no adverse report against the proposed guarantor, who is otherwise fit to control the movements of prisoner. It is only recorded that the guarantor has not given any necessary bond in this respect.

9 The apprehension of not returning back or the possibility of indulging in similar crime, is not based upon any factual matrix. He was never released, either on parole or furlough earlier and as such, the apprehension expressed by the Respondents, is without any basis.

10 The authorities can whilst accepting necessary undertaking/bond from the prisoner can order release on parole or furlough on suitable terms and conditions, including one for his attendance at local police station.

11 Hence, we find the rejection of furlough unsustainable. The impugned orders are quashed and set aside. We direct the Respondents to obtain necessary undertaking/bond from the prisoner and his guarantor and thereafter release him on furlough leave in accordance with law. This exercise shall be completed within four weeks from today.

12 The petition is, thus, partly allowed and disposed of.

(SMT. SWAPNA JOSHI, J.)

(B.P. DHARMADHIKARI, J.)