

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

CRIMINAL WRIT PETITION NO. 2380 OF 2019

Asha Pune Tayade

....Petitioner

vs.

The State of Maharashtra and ors.

....Respondents

Mr.Rupesh Jaiswal holding for Adv. M.N.Gawankar for the Petitioner.
Ms. M.H.Mhatre, APP. for the State.

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

DATE : 24th June, 2019

PC :

1. By impugned order dated 19.1.2019 furlough is denied to petitioner on the ground that when he was released on parole leave in 2013 he absconded, was required to be arrested and brought back after 474 days. Hence, as per Rule 4(10) of Maharashtra Prison Furlough and Parole Rule, 1959 he is not eligible.

2. Counsel for petitioner states that because his late return, his name has been permanently removed from Remission Register. The word shall in Rule 4(10)) has been construed as directory and hence, in appropriate cases authorities have discretion to pass suitable orders even in the case of

present petitioner.

3. The learned APP states that impugned order mentions adverse police report and adverse remark of Jail Superintendent. According to her there is no refusal to consider the facts of the matter,

4. The file containing necessary papers is shown by learned APP to us. Therein police authorities have obtained some statements of relatives of victim/witness to gather that release of petitioner would be prejudicial to their safety and security. The fact that petitioner was on bail during trial and did not indulge in any wrong activities appears to be not in dispute. Similarly, the conduct of prisoner in Jail does not appear to be unsatisfactory,.

5. However, the authority competent to order his release has to consider all these material and then reach its satisfaction obviously that has not been done. We therefore, quash and set aside the impugned order and direct the said authority to reconsider the request made by the petitioner in the light of this order within four weeks from the date of communication of this order.

(SMT. SWAPNA S. JOSHI, J.)

(B.P.DHARMADHIKARI, J.)