

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

WRIT PETITION NO.3146 OF 2019

Pramod Dhondiram Gade

...Petitioner

vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Sampat B. Kale for the Petitioner.

Mr. Arfan Sait, APP for the Respondent.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.
DATE : 10/07/2019.**

P.C.:

. Heard learned counsel for the Petitioner and learned APP for Respondent. Petitioner convict in jail since 13/4/2004 has been punished on 21/1/2009 for offence under sections 304, 364, 34 of IPC with sections 4/25 of Arms Act.

2. On 19/7/2009 he was released on furlough and was supposed to return back by 25/7/2009. He absconded and police arrested him and brought back on 9/10/2014 i.e. after delay of 1901 days. As punishment his name has been permanently removed from remission register.

3. On 13/8/2016 for some act of indiscipline he has been shifted to Yerwada Central prison.

4. By impugned order dated 16-17/10/2017 his request for furlough has been denied because of absconding for 1901 days and indiscipline at Nashik Central prison.

5. This order is maintained by the Appellate Authority on 15/2/2018.

6. Learned counsel for the petitioner states that the mother of the petitioner is old and she cannot visit him at Yerwada Central Prison. After 2014 again he has not been released and as such he may be given furlough leave by imposing appropriate conditions. He submits that conduct of prisoner in jail is very good.

7. Learned APP is opposing the prayer on grounds of earlier absconding of the petitioner, misconduct which necessitated his transfer to Yerwada Central prison. Learned APP relies upon provisions of Rule 4(4) and 4(10) to submit that the said application cannot be entertained.

8. We tried to find out from learned counsel for the petitioner who are the relatives waiting to receive petitioner. Learned counsel for the Petitioner is not in position to make any statement. Facts show that aged mother is not in position to vouch for his return on due date to prison and to control him.

9. For absconding the petitioner has already been punished. It is for authorities to consider and evaluate his conduct after 13/8/2016. Impugned order further mentions that his conduct and behaviour is not satisfactory which is disputed by the petitioner.

10. Hence, without observing anything on merits of orders impugned, we grant the petitioner leave to make fresh application for furlough as per rules. If he furnishes proper surety and security, who can supervise his stay outside the prison and guarantee his timely return, it will be open to authorities to look into it as per law. If such application is

moved within 8 weeks from today, authority shall take suitable decision upon it as per law within a period of next 8 weeks.

11. With this direction the petition is disposed of.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)