

18.9.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5874 OF 2018

Shrikrishna @ Babu Tukaram GuravPetitioner

V/s.

The State of Maharashtra & Anr.Respondents

Ms. Pooja R. Thakur, Advocate for the petitioner.

Mr. Arfan Sait, APP for the State.

Mr. Nikumbe, P.I. Crime Branch Unit-3 present.

Mr. P.S. Shinde, Jailor, Kolhapur Central Prison,
Kalamba present.

**CORAM : B.P. DHARMADHIKARI, &
SANDEEP K. SHINDE, JJ.**

Wednesday, 18th September, 2019.

P.C. :

1. Heard learned Counsel for the applicant.

Learned APP for respondent State.

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2. Perused appellate order upholding rejection of furlough leave to the petitioner. Also perused order dated 23rd April, 2019 passed in Criminal Writ Petition No. 118 of 2019 permitting main accused, Arun Gawli to avail furlough leave.

3. In the present matter, furlough leave has been declined on the ground of adverse police report, that petitioner is member of Arun Gawli Gang undergoing imprisonment in MCOCA offence and surety offered by him does not have immovable property. Apprehension expressed is, he may not therefore return back to prison.

4. Learned APP while opposing the petition submitted that, one more trial is going on against the petitioner on day-to-day basis and to facilitate that trial, he is now shifted to Arthur Road Jail. He has invited our attention to nominal

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note produced today. The nominal note is taken on record and marked Exhibit-A.

5. Ongoing criminal trial on day-to-day basis is not the reason given in order refusing furlough. It appears that, main accused Arun Gawli has been permitted to avail that leave by this High Court. The order of this court at Nagpur takes note of fact that Arun Gawli has also been released earlier and has reported back on due date.

6. This order in favour of Arun Gawli who happens to be the gang-leader could not be overlooked in the impugned order.

7. The learned Counsel for the petitioner, during arguments has submitted that, proper surety with immovable property is available and can be furnished. In this situation, without observing anything on merits of the controversy, we direct

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respondents to pass fresh order in the mater.

8. Petitioner to submit alternate surety with necessary records of property and also orders in the matter of gang leader, Arun Gawli for perusal of the respondent.

9. After perusal thereof, respondent shall -pass fresh orders.

10. Petitioner to submit necessary documents within two weeks from today. The authorities shall pass suitable orders thereafter within next four weeks.

11. With this order, we partly allow the Writ Petition and dispose it off.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)