

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5887 OF 2018

Chandan Armogam Naykar. ... Petitioner.
V/s.
The Inspector General (Prisons), Pune
and others. ... Respondents.

Mr.Kushal C. Mor for the petitioner.
Mr.Arfa Sait for the respondent- State.

CORAM : A.S.OKA AND A.S.GADKARI, JJ.

DATE : 28th February 2019.

P.C. :

Heard the learned counsel appearing for the petitioner and the learned APP for the respondent- State. The petitioner applied for grant of furlough under the Prisons (Bombay Furlough and Parole) Rules, 1959 (for short "the said Rules of 1959"). The Competent Authority rejected the application made by the petitioner by an order dated 9th June 2018. The main ground on which the application was rejected was that when the petitioner was released on furlough in the year 2010, he did not report back to the prison and after lapse of 1,124 days, he was arrested in connection with CR No.57/2014 registered with Karad Police Station for the offences punishable under sections 399 and 402 of the Indian Penal Code (for short "IPC").

2. The submission of the learned counsel appearing for the petitioner is that for a period of 3 years after the petitioner was released

on furlough, he remained admitted in a Government Hospital at Chennai. He submitted that a Division Bench of this Court at Aurangabad decided a similar case by a judgment and order dated 22nd February 2018 in Criminal Writ Petition No.71/2018 (*Sherkhan s/o. Mirbaj Khan Pathan v. The State of Maharashtra and others*) and directed grant of furlough.

3. We have perused the record. We have considered the submissions. The petitioner has invoked extra ordinary writ jurisdiction of this Court under Article 226 of the Constitution of India. Assuming that after the petitioner was released on 30th December 2010 on furlough, he was admitted to a hospital for a period of 3 years, not only that the petitioner did not apply for extension of furlough but while he was out of jail, on 15th December 2014, a First Information Report for the offences punishable under section 399 and 402 of IPC has been registered against the petitioner and in connection with the said offence, he has been arrested and taken to jail. That fact that he was released on bail in connection with the said offence is no ground. It is not the case of the petitioner that he had informed the jail authorities that he was admitted in the hospital in the State of Tamil Nadu.

4. Considering the aforesaid conduct of the petitioner, this is not a fit case wherein the petitioner should be ordered to be released on furlough in exercise of powers in writ jurisdiction of this Court.

The petition is rejected.

(A.S.GADKARI, J.)

(A.S.OKA, J.)