

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 250/2019.

Chudaman Gambhirdas Chomar (In Jail)

-VERSUS-

The State of Maharashtra and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.Y. Sharma, Advocate for the Petitioner.
Shri T.A. Mirza, A.P.P. for Respondents.

CORAM : Z. A. HAQ AND
VINAY JOSHI, JJ.

DATE : APRIL 23, 2019.

Heard.

2. This Petition is filed by the petitioner in terms of Article 226 of the Constitution of India. The petitioner has applied for grant of furlough leave of 28 days. Respondent no.1 – Deputy Inspector General of Prisons (Eastern Region), Nagpur vide the impugned order dated 19.12.2018, has rejected petitioner's application for grant of furlough leave. The said order is the subject matter of challenge in this petition.

3. The petitioner is convicted for the offence

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punishable under Sections 302, 201 read with 34 of the Indian Penal Code. The impugned order discloses that in the year 2008, while the petitioner was released on furlough leave, he absconded and was brought back by arresting him after 2023 days. On this count, it is canvassed by the State that the petitioner has no regards for law. He has blatantly misused the liberty, and therefore, he does not deserve furlough leave.

4. The learned Advocate, while emphasizing entitlement for release of the applicant has relied upon a reported judgment in case of **Sitaram Rajaram Deokar .vrs. Deputy Inspector General of Prison and another [2014 All MR (Cri) 1309]**. Though in the said case, the then petitioner was held eligible for furlough leave, the said case is distinguishable on facts, since the then petitioner was arrested after 22 days, which is quite less as compared with the case at hand.

5. We have given our anxious consideration to the facts and find that admittedly the petitioner had misused the liberty to its optimum level. Ultimately the Police arrested him and brought back after near

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about 6 years. This instance itself is sufficient to reject his request for grant of furlough leave. Considering petitioner's past conduct there is every possibility that he may not return on due date after his release. Therefore, we do not find any merit in the writ petition, the same is dismissed. No costs.

JUDGE**JUDGE**

Rgd.