

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

CRIMINAL WRIT PETITION NO. 276 OF 2019

Siddharth Sanjay Jadhav,
Aged about 26 years, R/o. Rom No.13,
Plot No.31, Raman Mama Vasahat,
Sangarsha Mitra Mandal,
Baigan Wadi, Govandi, Mumbai
(In Jail), Convict No.C-5180,
Central Prison, Amravati.

.... **PETITIONER.**

// **VERSUS** //

1. Deputy Inspector General of Prison
(East) Region, Nagpur.
2. The Superintendent,
Central Prison, Amravati.

.... **RESPONDENTS.**

Ms S.B.Khobragade, Advocate for Petitioner.
Ms Nandita Tripathi, A.P.P. for Respondents.

CORAM : Z.A.HAQ AND VINAY JOSHI, JJ.
DATED : MAY 02, 2019.

ORAL JUDGMENT : (Per : Vinay Joshi, J)

1. Heard.
2. **RULE.** Rule made returnable forthwith.

3. The petitioner applied for grant of furlough leave for 21 days. However, his application is rejected by the respondent No.1-Deputy Inspector General of Prisons (Eastern Region), Nagpur vide impugned order dated 2nd February 2019. The respondent has rejected the application on the ground that if the petitioner is released on furlough leave then there is possibility that petitioner may repeat similar offences.

4. The State also resisted the petition vide reply-affidavit. The only ground canvassed is that the petitioner is convicted for commission of serious offence and therefore, if he is released then there is possibility of committing similar type of offence. It is also stated that the co-accused is released after serving the sentence and therefore, there is possibility of disturbing peace and creating law and order problem.

5. The petitioner is convicted for the offences punishable under Sections 304, 324, 144, 147, 148, 506, 143 of the Indian Penal Code. He had undergone imprisonment for 1 year and 7 months on the date of filing the petition. As per Rule 3 of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018, as amended by notification dated 16th April 2018, the convict who is sentenced to suffer imprisonment up to five years, is entitled for first furlough leave on completion of one year imprisonment. Though, it is expressed that the petitioner may again commit crime or disturb the public peace, however, the said apprehension is not

supported by any material. The petitioner has, first time, claimed furlough leave, meaning thereby there are no antecedents or instances of late surrender. The co-accused is already released after serving sentence and it can hardly be a ground for rejection of the petitioner's request for furlough leave. In the circumstances, we do not find any reason to reject the petitioner's request for furlough leave. In view of that, the impugned order would not sustain.

6. In conclusion, we allow the writ petition and set aside the impugned order dated 2nd February 2019, passed by Deputy Inspector General (Eastern Region), Central Prison, Nagpur. The petitioner is entitled to be released on furlough leave for 21 days, on such terms and conditions as the authority shall deem fit and proper.

Rule is made absolute in the aforesaid terms.

(VINAY JOSHI, J.)

(Z.A.HAQ, J.)

RRaut..