

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

CRIMINAL WRIT PETITION (CWP) NO. 508 OF 2019

(Arif Baksa Mehbub Baksa, Convict No. C/9537 at Central Prison, Nagpur vs. The State of Maharashtra thr. Deputy Inspector General, Eastern Region, Nagpur & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms. Shweta D. Wankhede, Advocate for the
petitioner.

Shri N.H. Joshi, APP for the respondents.

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CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
RESERVED ON : SEPTEMBER 04, 2019.
PRONOUNCED ON : SEPTEMBER 11, 2019.

Heard Ms. Shweta D. Wankhede, learned
counsel for the petitioner and Shri N.H. Joshi,
learned APP for the respondents.

The rejection of the petitioner's application
for furlough leave is challenged in this petition. The
petitioner is a life convict for the offence punishable
under Sections 294, 302 and 506(B) of the Indian
Penal Code. Till date, the petitioner has already
undergone more than five years of imprisonment.
The first furlough leave to the petitioner was granted
on 01.11.2017. Admittedly, he did not surrender on
due date and he was required to be arrested and brought
back to prison on 30.03.2018 i.e. late by 127 days. His

present furlough leave application was rejected mainly on the ground of his previous conduct of overstay.

The petitioner states that he overstayed on account of his operation during that period and he has filed on record relevant medical papers.

A perusal of medical papers would reveal that he had given consent for undergoing operation on 11.01.2018 and a medical document dated 15.01.2018 showing prescriptions of medicines for five days. Though, he did not surrender voluntarily and required to be arrested, medical documents show on record that he was undergoing treatment.

For the present furlough leave, he states that his wife Rubina Parvin is undergoing medical treatment. Police verification report dated 16.04.2019 confirms about knot in liver of wife of the petitioner. Police report is also positive about competence of the surety for release of the petitioner.

In our opinion, looking to the health condition of his wife and the object of furlough and parole leave, one opportunity need to be given to the petitioner. Admittedly, except his previous conduct of overstay, he is otherwise eligible for grant of furlough leave.

In this view of the matter, we allow the

present Criminal Writ Petition in terms of prayer clauses (i) and (ii) subject to such terms and conditions as may be found suitable to the respondents to be imposed on the petitioner. In addition to same, petitioner shall report to Police Station within whose jurisdiction the petitioner proposes to stay during the furlough leave, on alternate day between 11.00 AM to 12.00 Noon.

Needless to mention that any default on the part of the petitioner to surrender on due date would be viewed seriously while deciding his furlough and parole applications, if any filed in future.

JUDGE

JUDGE

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