

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

CRIMINAL WRIT PETITION (CWP) NO. 621 OF 2019

(Anil Laxman Javade, C/2185 at Central Prison, Amravati vs. The State of Maharashtra thr.
S.P. Central Jail, Amravati & Anr.)

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

Court's or Judge's orders.

Shri Raju Kadu, Advocate for the petitioner.
Mrs. S.S. Jachak, APP for the respondents.

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**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
SEPTEMBER 11, 2019.**

Heard Shri Raju Kadu, learned counsel for
the petitioner and Mrs. S.S. Jachak, learned APP for
the respondents.

The order of rejection of Parole leave
dated 17.06.2019 is challenged in this petition. The
petitioner is a life convict for the offence punishable
under Sections 302 read with Section 34 of the
Indian Penal Code vide judgment and order passed by
the Sessions Judge, Akola, dated 08.11.1994. He
applied for parole leave vide application dated
12.03.2019 on the ground of illness of his mother.
His application was rejected mainly on the ground of
his previous unauthorized overstay on each occasion
when he was on parole/ furlough leave.

We have considered the submissions made on behalf of both the parties. The affidavit-in-reply filed on behalf of the State would reveal that during his parole or furlough leave, he absconded for 2404 days in total. The following chart would reveal the conduct of the petitioner during the period between 2004 to 2014 for regular unauthorized overstay.

CHART OF FURLOUGH LEAVE

SR. NO.	TYPE OF LEAVE	DATE OF SURRENDERING LATE
1.	Furlough leave	On 21.07.2004 surrendered late 10 days, by police.

CHART OF PAROLE LEAVE

SR. NO.	TYPE OF LEAVE	DATE OF SURRENDERING LATE
1.	Parole leave	On 20.11.2003 surrendered late by 497 days, by police.
2.	Parole leave	On 18.10.2005 surrendered late by 24 days.
3.	Parole leave	On 19.06.2008 surrendered late by 204 days, by police.
4.	Parole leave	On 18.12.2010 surrendered late by 463 days, by police.
5.	Parole leave	On 18.12.2014 surrendered late by 1206 days, by police.

As per Rule 19 (2) of the Prisons (Bombay Furlough and Parole) Rules, 1959, all the prisoners eligible for furlough shall be eligible for regular parole for following reasons :-

a. Serious illness of father/mother/ spouse/ son/ daughter

b. Delivery of wife (except high security risk prisoners)

c. In case of natural calamities such as house collapse, flood, fire, earthquake, etc.

Provided that, a prisoner shall not be released on emergency or regular parole for the period of one year after the expiry of his last emergency or regular parole except in case of death of his nearest relatives mentioned above.

Rule 4 of the said Rules provides for eligibility for furlough. Sub-rule (10) of Rule 4 provides as under :

(10) Prisoners who have at any time escaped or attempted to escape from lawful custody or have defaulted in any way in surrendering themselves at the appropriate time after release on parole or furlough;

In view of the continuous unauthorized overstay by the petitioner during his leave period, in our opinion, does not entitle him for grant of parole leave.

Furthermore, police report is negative as far as serious illness of his mother is concerned. He also did not file any document on record to show serious illness of his mother. One medical certificate

dated 29.06.2018 shows that his mother is suffering from acute abdomen pain. Whether the same is continued and what is the current position, is not on record.

In the circumstances, the order of rejection of parole to the petitioner, does not suffer from any malafides, illegality or infirmity and hence, we reject the present Criminal Writ Petition.

JUDGE

JUDGE

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