

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 7 OF 2020

Ramesh s/o B abu Balwad (C-5101)
Open Prison, Paithan

..Petitioner

Versus

1. The State of Maharashtra,
Through D.I.G. Prisons,
Aurangabad
2. The State of Maharashtra,
Through Superintendent,
Open Prison, Paithan

..Respondents

Mr R.A. Jaiswal, Advocate for petitioner
Mr P.S. Patil, Addl.P.P. for respondents

**CORAM : T.V. NALAWADE AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 5th June 2020

ORAL JUDGMENT (Per T.V. Nalawade, J.)

1. Rule. Rule made returnable forthwith. With the consent of both the sides, taken up for final disposal.
2. Present petition is filed to challenge the order passed by respondent no.1 by which furlough leave application filed by the petitioner is rejected by respondent no.1.
3. Submissions made and the record show that this is the first time the petitioner will be coming out of jail on furlough leave. He has been behind the bars since 2009. At present, he is kept in open prison. Considering the conditions which are required to be fulfilled for keeping the prisoner in open prison, this Court feels that the respondent ought to have considered the matter sympathetically.

4. The application for furlough leave is rejected on the ground that there is adverse police report and the petitioner may not return to jail if he gets furlough leave.

5. Even after the decision of the matter, witness ordinarily agitates his grievance and opposes such furlough leave. After so many years, there is clear possibility that the prisoner has improved himself and he is no more danger to the society. As it is the first time, the prisoner would be coming out of jail and considering the purpose behind it, this Court holds that an opportunity needs to be given to the petitioner. In view of this, the following order :

ORDER

(I) Criminal Writ Petition is allowed. The order dated 11.10.2019 passed by respondent no.1 rejecting the application of the petitioner for furlough leave is hereby quashed and set aside.

(II) The petitioner is to be released on furlough leave on furnishing P.R. bond of Rs.15,000/- (Rs. Fifteen thousand). If surety is not available, cash security of similar amount is to be taken. He is to be released on other usual terms and conditions.

(III). Rule made absolute in above terms.

(**SHRIKANT D. KULKARNI, J.**)

(**T.V. NALAWADE, J.**)

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