

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 105 OF 2020

Atikul Habibul Rehman Shaikh
Age major, Occ. Convict
R/o Khardi Gaon, Kharkhi Pada
near Hanuman Temple,
Mumbra, Thane, Mumbai
At present Confined in 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 the petitioner.
Mrs. D.S. Jape, APP for respondents.

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**

DATE : 31st January, 2020.

JUDGMENT : (PER T. V. NALAWADE, J.)

1. Rule. Rule made returnable forthwith.
2. By consent, heard both sides for final disposal.

3. The proceeding is filed challenging the order passed by respondent No. 1 by which application filed by present petitioner for furlough leave is rejected. Application is rejected on the ground that there is adverse police report. It is mentioned that the petitioner may not turn up after period of leave is over and it is also contended that as he is not having any property, he may abscond.

4. The statement made shows that the petitioner has been behind bar as convict for more than 11 years. This will be the first time when he will come out of jail on furlough leave. The witnesses are bound to take objection in respect of furlough leave but that cannot be a reason for rejection of furlough leave application.

5. Considering the purpose behind the scheme of furlough leave, this Court holds that the petitioner needs to be granted furlough leave. As he is not able to give surety, he can be released on cash security to give him an opportunity to show that he can mix in the society.

6. In the result, the petition is allowed. Order passed by

respondent No. 1 is quashed and set aside. Furlough leave application filed by petitioner is allowed. He is to be released on furlough leave after taking cash security of Rs. 5,000/- within 15 days and by imposing other usual conditions. Rule made absolute.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge

dyb