

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 269 OF 2020

Dulsingh @ Bondya s/o Hari Pawar
age major, occ. Nil
r/o at present Harsul Open Prison
Tq. & Dist. Aurangabad.

Petitioner

Versus

1. The State of Maharashtra
2. The Deputy Superintendent
of the Open Prison
Harsul, Dist. Aurangabad.
3. The Deputy Inspector General
Harsul Central Prison at
Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for the petitioner.
Mr. K.S. Patil, APP for all respondents.

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

DATE : 24th February, 2020.

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

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

3. Present proceeding is filed to challenge the order dated 11.09.2019 passed by respondent No. 3 thereby rejecting the application made by present petitioner-prisoner for grant of furlough leave. Copy of the order and the communication made by learned APP with the Superintendent of Central Jail, Aurangabad, show that adverse police report is given as one of the grounds for rejection of furlough leave application. One more reason is given like health condition of the surety is not good and he is suffering from paralysis.

4. Submissions made show that petitioner has been behind bar for more than seven years and this will be the first occasion when he will be coming out of the jail on furlough leave. Ordinarily, witnesses take objection to such release and police give report due to the objection of such witnesses. Considering the purpose of the scheme of furlough leave, such objection cannot become a ground for rejecting furlough leave. Further, the reason given that the surety is suffering from paralysis also cannot sustain in law.

5. In view of these circumstances, this Court holds that the order passed by respondent No. 3 needs to be quashed and set aside.

Accordingly, the petition is allowed. Order under challenge is quashed and set aside. Application filed for furlough leave is allowed. Petitioner be released on furlough leave by accepting the surety offered by him, subject to usual terms and conditions. Decision be taken within 15 days from today.

6. Rule made absolute in above terms.

7. Authenticated copy of the order be provided to the parties.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge

dyb