

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

CRIMINAL WRIT PETITION NO. 435 OF 2020

Vitthal s/o Narayansingh Thakur
(C-4979), Age major, Occ. Convict,
R/o 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 petitioner
Mr S.D. Ghayal, A.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. The application is rejected by respondent no.1 on the ground that there is adverse police report and there is nobody to stand as surety.
4. The application made and the record show that the petitioner is kept in Open Prison, Paithan. This is the first time, the petitioner will be coming out of jail and he has been in jail since 2008.

5. Only after fulfilling some conditions, the petitioner is kept in open prison. The witness ordinarily opposes such release. Considering the scheme of furlough leave, opportunity needs to be given to the prisoner to show that he has improved himself and he is no more danger to the society. In view of law laid down in Full Bench decision of this Court in case of **Deepak Sudhakar Wakalekar Vs. State of Maharashtra**, reported in **2011 ALL M.R. Cri. 1933**, such prisoners can be released on furnishing P.R. bond and cash security.

6. In view of these circumstances, this Court holds that the order made by respondent no.1 needs to be set aside. Hence, 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 application filed by the petitioner for furlough leave is allowed.

(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 in lieu of surity is to be taken from him. 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.**)