

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

927. CRIMINAL WRIT PETITION No. 567 of 2020

Kazi Badruddin Fakruddin
(his son Azaruddin S/o Badruddin Kazi
is confined in Central Prison, Harsul,
Aurangabad as Convict No. 8453),
age 93 years occupation nil
R/o near Meena Function Hall,
Shahshannagar, Beed.

...Petitioner

VERSUS

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

...Respondents

Mr Rupesh A. Jaiswal, Advocate for petitioner
Mr S.J. Salgare, Addl. Public prosecutor for the Respts./State

CORAM : T.V. NALAWADE &
SHRIKANT D. KULKARNI, JJ.

DATE : 3rd July, 2020

J U D G M E N T (Per : T.V. NALAWADE, J.)

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

3. This proceeding is filed by father of the prisoner challenging the order made by the respondents, dated 21st May 2020, by which the application made by the petitioner to release him on furlough leave, is rejected. One of the reasons is that he had surrendered late in the past and on that occasion two crimes were registered against him under Section 224 of the Indian Penal Code. The other reason is that there is adverse police report against him.

4. Adverse police report is ordinarily dealt on the objections of the witnesses. The witnesses are bound to object every time but considering the purpose behind the scheme of furlough leave, such objection cannot be treated as relevant. It appears that the petitioner has been behind the bars since 2010. It was the first time when he was released on furlough leave in the year 2013 and on that occasion he had made surrender late by 397 days. Due to that, crimes came to be registered against him by the authorities. In the year 2018, the petitioner had approached this Court and on that occasion by allowing the proceeding this Court had given direction to release the petitioner on parole leave. On that occasion, he was released on parole and he has surrendered in time. This circumstance shows that he has improved himself. Otherwise, now

he is eligible for consideration of furlough leave. In view of the situation created by the pandemic of Covid 19 virus, some scheme is also prepared by the Government to grant emergency parole to some prisoners. Considering this situation and the aforesaid circumstances, this Court holds that the respondents ought to have allowed the application given for furlough leave.

5. In the result, the petition is allowed. Order of the rejection made by the respondents is hereby quashed and set aside. Application made by the petitioner for furlough leave is hereby allowed. He is to be released on furlough leave within 15 (fifteen) days, on usual terms and conditions. Rule made absolute in those terms.

(SHRIKANT D. KULKARNI)
JUDGE

(T.V. NALAWADE)
JUDGE

Madkar