

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL WRIT PETITION NO. 1673 OF 2019

Shaikh Mohd. Rafiq Abdul Samed
(C-8338) Central Prison,
Aurangabad.

... **PETITIONER**

VERSUS

1. The State of Maharashtra,
Through Inspector General,
Prisons, Pune.
2. The State of Maharashtra,
Through Deputy Inspector General
Prisons, Aurangabad.
3. The State of Maharashtra,
Through Superintendent Central Prison,
Aurangabad

.. **RESPONDENTS**

....
Advocate for the Petitioner : Mr. R.A. Jaiswal
A.P.P for Respondent-State : Mr. R.V. Dasalkar
....

CORAM : T.V. NALWADE AND
M. G. SEWLIKAR, JJ.
DATE : 11.03.2020.

JUDGMENT(PER T.V. NALWADE, J] :-

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

2. Present proceeding is filed for challenging the order passed by respondent No.2 by which the furlough leave is refused to the petitioner/ prisoner. The reason given is that there is adverse police report. Other reason is given that he

has connection with gang, known as ' Bharat Nepali Gang' and so there is possibility of commission of similar offence if he comes out on furlough leave.

3. The submissions made shows that the petitioner has been behind the bars for approximately 10 years and this is first time when he will be coming out on furlough leave. Learned counsel for the petitioner produced on record the decision given at Nagpur Bench in **Criminal Writ Petition No. 234 of 2019** (*Ajit Chandrakant Rane Vs. Deputy Inspector General of Prison (East) Region, Nagpur*) and he produced copy of order passed at principal seat in **Criminal Writ Petition No. 1999 of 2019** (*Randir @ Nikhil Ashok Singh Vs. The State of Maharashtra And Others*) decided on 4.6.2019. Randir was co-accused with the present petitioner in the case in which the petitioner is convicted for life sentence for the offence punishable under The Maharashtra Control of Organized Crime Act, 1999 (MCOCA.) In Writ Petition No. 1999 of 2019 the purpose of parole is considered and it is observed that the reasons like the reason given in the present matter while rejecting the furlough application by the respondents authority cannot sustain in law.

4. In view of this position of law, this Court holds that relief

needs to be granted. In the result, following order :-

ORDER

- I. The petition is allowed.
 - II. The impugned order dated 9th July, 2019, passed by the respondent No.2. Deputy Inspector General of Prisons, Aurangabad rejecting the furlough leave application is hereby quashed and set-aside.
 - III. The furlough leave application is allowed.
 - IV. The petitioner/ prisoner is to be released on usual terms and conditions on furlough leave.
 - V. The decision is to be taken within 15 days from today.
 - VI. If the surety of mother is given it is to be accepted.
- Rule is made absolute in above terms.
- Authenticated copy is allowed to both the sides.

(M.G.SEWLIKAR, J.)

(T.V. NALAWADE, J.)

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