

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

Criminal Writ Petition No.2085 of 2019

* Jafar s/o Abdul Haq Shaikh,
Age 58 years, Occupation : Prisoner
Convict No.C-7682,
Central Prison, Harsool,
Aurangabad. **.. Petitioner.**

Versus

- 1) The State of Maharashtra
Through its Principal Secretary,
Home Department,
Maharashtra State, Mantralaya,
Mumbai - 32.
- 2) The Inspector General of Police
(Prison), Maharashtra State,
Pune, Office at Central Prison,
Yerwada, Pune, District Pune.
- 3) The Deputy Inspector General of
Police (Prison), Central Prison,
Harsool, Aurangabad.
- 4) The Superintendent of Prison,
Central Prison Harsool,
Aurangabad. **.. Respondents.**

Shri. M.S. Choudhari, Advocate, for petitioner.

Shri. R.V. Dasalkar, Additional Public Prosecutor, for
respondent Nos.1 to 4.

**Coram: T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

Date: 05 FEBRUARY 2020

ORAL JUDGMENT (Per T.V. Nalawade, J.):

1) Rule. Rule made returnable forthwith, Heard both sides by consent for final disposal.

2) The present proceeding is filed to challenge the order made by respondent No.3 by which the furlough application of the petitioner came to be rejected. The submissions made and the record show that the application is rejected on the ground that there is adverse police report, there is no recommendation of the jail superintendent and in view of Rule 4(4) and 4(6) of the Prisons Rule 1959 the furlough cannot be granted.

3) The submissions made and the record show that in the past he was released both on furlough and parole and every time he returned to jail in time. This Court was required to make order in his favour on 11-7-2019 to release him on parole and this Court had held that he cannot be treated as person convicted under the provisions of TADA. The submissions made show that the

petitioner returned to jail in time. Now he wants to avail furlough leave. The reasons like adverse police report and no recommendation of jail superintendent cannot sustain in law as there is no reason for taking such objection. On many occasions he was released on furlough and also on parole, no untoward incident took place. So, such ground cannot be used for refusing furlough leave. In view of the object behind furlough this Court holds that the present proceeding needs to be allowed and order made by the authority by which the application came to be rejected needs to be quashed and set aside. Hence the following order:

4) The petition is allowed. The order made by respondent No.3 is hereby quashed and set aside. The application is allowed. The petitioner is to be released on furlough on usual terms and conditions. The order needs to be complied within 15 days. Authenticated copy is allowed. Rule made absolute in those terms.

Sd/-
(M.G. SEWLIKAR, J.)

Sd/-
(T.V. NALAWADE, J.)

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