

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4256 OF 2018**

Azim Mohammad Hanif Shaikh	... Petitioner
V/s.	
The State of Maharashtra and anr.	... Respondents

Mr. Abdul Hafeez Yakub Kotwal (appointed) for the Petitioner.
Mr. K.V. Saste, APP for the Respondent – State.

**CORAM : B.P. DHARMADHIKARI,
 ACTING CHIEF JUSTICE &
 N.R. BORKAR, J.
DATE : MARCH 6, 2020.**

P.C.

1] Learned APP is seeking adjournment as papers are not available with him. Request is opposed by learned counsel (appointed).

2] Prayer for furlough has been rejected on 20th April 2018 by DIG, Prisons, West-Zone, Pune and the Additional Director General of Police and Inspector General of Prisons for Maharashtra has dismissed the appeal on 16th July 2018.

3] The only reason for rejection of furlough is adverse police report.

4] Nominal Roll shows that for offence punishable under sections 302 and 307 of IPC, the prisoner was under trial from 28th November 2012 to 23rd January 2017 and thereafter, he is undergoing imprisonment as a convict. Thus, he was never out of prison after commission of offence.

5] Adverse police report is therefore, based upon only hypothecation and cannot be substantiated by facts.

6] The fact that prisoner resides in the neighbourhood of the complainant, therefore, is not a relevant ground, at this stage.

7] In any case, while releasing a prisoner on furlough suitable conditions can be imposed to see that he remains away from the complainant and the prosecution witnesses or then does not visit that area.

8] We therefore, find both orders unsustainable and the same are quashed and set aside. We direct the first authority

to pass fresh orders, in accordance with law within four weeks from the date of communication of this order to it.

9] This order be communicated to the prisoner in Jail.

(N.R. BORKAR, J.)

(ACTING CHIEF JUSTICE)