

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 162 OF 2020

Maruti Ramchandra Gholap ... Petitioner

Versus

The State of Maharashtra ... Respondent

Adv Sushan N. Mhatre for the petitioner.

Mr.K.V. Saste, APP for the respondent State.

CORAM : B.P. DHARMADHIKARI,
ACTING CHIEF JUSTICE &
NITIN R. BORKAR, J.
DATE : MARCH 03, 2020

P.C.:

Heard learned counsel (appointed) and learned APP for the State.

2. Learned APP points out the nominal roll and reason recorded in the impugned order to urge that as the prisoner has absconded earlier, the Authorities have concurrently found it not possible to release him on furlough. Our attention is also invited to fear expressed by the complainant and witness.

3. Learned counsel (appointed) invited our attention to recommendation given by the Superintendent of Jail which finds his behaviour and conduct in jail satisfactory. He also submits

that the prisoner has on last occasion reported back voluntarily and therefore, did not abscond. Lastly it is submitted that the apprehension expressed by the complainant or his witness has got no legal base.

4. We have perused the papers. The date on which the complainant or his witness have expressed fear is not on record. The prisoner is in jail since 27/4/1999 and during this period he was out on furlough on two occasions and on parole on three occasions. There is no report of any threats extended by him or his colleagues to complainant or his witnesses during this period.

5. It is no doubt true that in 2005, he was required to be arrested and brought back after 171 days on expiry of parole leave. For it, his name was removed from the remission register for five years. It appears that again in October, 2006, he was released on parole and he absconded. He was not available for 1743 days. However, he has reported back himself and was not required to be arrested. In the year 2016, he was again sanctioned parole for 30 days. He has reported back late voluntarily by 30 days.

6. Thus on last two occasions, though he has reported late, it was voluntary surrender and he was not required to be arrested.

7. His behaviour and conduct as certified by the jailor in this

background becomes important. There is a recommendation to release him. We therefore, find denial of leave to him on the grounds mentioned supra unsustainable. The orders are accordingly quashed and set aside. The Authorities are directed to impose suitable terms and conditions and to release him on furlough within two weeks after receipt of this order by them.

8. With the aforesaid directions, petition is allowed.

9. This order be served on the prisoner in jail.

NITIN R. BORKAR, J.

ACTING CHIEF JUSTICE