

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.523 OF 2020

PETITIONER :- Rambharose @ Ranga Pannalal Malviya

...VERSUS...

RESPONDENTS :- 1. State of Maharashtra Through Deputy Inspector  
General of Prison, Eastern Region, Nagpur  
2. The Superintendent, Central Prison, Nagpur

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Ms Shweta Wankhede, Counsel for the petitioner  
Ms N.R. Tripathi, Counsel for the respondents  
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**CORAM : SUNIL B.SHUKRE &  
AVINASH G. GHAROTE, JJ.**

**DATE : 02/11/2020.**

O R A L J U D G M E N T (Per : Sunil B.Shukre, J.)

1. Heard. Rule. Rule made returnable forthwith.
2. Heard finally by consent of the learned counsels appearing for the parties.
3. By this petition, the petitioner is seeking furlough, after his application for grant of furlough came to be rejected by respondent No.2 by the order dated 18/09/2020, which is the impugned order.

4. There is no dispute about the fact that the petitioner is otherwise eligible for his release on furlough. The dispute is only about the past record of the petitioner, which is not so good and the ability of the surety proposed by the petitioner.

5. The past record of the petitioner is reproduced in paragraph No.3 of the reply of respondent No.2. It shows that in the years 2008 and 2009 the petitioner was released on furlough but, on each occasion the petitioner did not surrender himself before the prison authority on due date. In the first instance, the delay was of two days and in the second instance, it was of 1067 days. The petitioner has also availed of the parole leave and even on the said occasion the petitioner had reported himself to the prison authority by a delay of 116 days. But, it appears that the bad record of the past was obliterated by the petitioner when he showed improvement in the year 2019. In May, 2019, the petitioner was again released on furlough leave and at that time, the petitioner surrendered himself before the jail authorities on the due date, which was of 23/06/2019.

6. The impugned order shows that the respondent No.2 formed an opinion that it would be risky to repose any trust in the petitioner because of his general bad record of the past. It is stated in the impugned order that the past record would show that the surety

furnished by the petitioner was not in a position to exercise proper control over the petitioner in ensuring the petitioners timely surrender before the jail authorities.

7. Learned counsel for the petitioner invites our attention to the averments made in paragraph No.8 of the petition to support her contention that the petitioner would furnish another surety as would inspire confidence of the jail authorities. Name of the alternate surety has been mentioned in paragraph No.8. This surety is one Rambali Rajaram Prajapati. According to the learned counsel for the petitioner, Rambali Prajapati is the uncle of the petitioner and he is the one who stood as surety for the petitioner in the year 2019, when the petitioner was released on furlough leave.

8. As the petitioner had surrendered himself well on time on the immediate last occasion, which was in the year 2019, at which time, as we note from the contention of the petitioner that Rambali Prajapati is a surety to be relied upon, we would like to give one more chance to the petitioner to continue with his improved record.

9. Accordingly we are inclined to allow this petition conditionally.

10. The petition is allowed. The impugned order is hereby quashed and set aside. The respondents are directed to release the

petitioner on furlough leave, as per his entitlement, subject to the petitioner furnishing the surety, as proposed by him in paragraph No.8 of the petition, to the satisfaction of respondent No.2, with further condition that if the petitioner makes any breach in reporting before jail authority on due date of surrender, the petitioner would forfeit his right to be released on furlough or regular parole in future.

Rule is made absolute accordingly.

**JUDGE**

**JUDGE**

J. Pethe