

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1070 OF 2021

Ashish Bharat Jadhav]
Age 31 years,]
R/at – Yashodeep Chowk, Kadu Chawl]
Behind Joshi STD, Warje Malwadi, Pune]
At present Yerwada Central Prison, Pune.]..... Petitioner.

Versus

1]	Director General of Police (Prison)	]
	Maharashtra State, Pune – 1	]
	Old Central Building, 2 nd Floor, Pune	]
		]
2]	Superintendent of Police (Prison)	]
	Western Division, Yerwada, Pune-6	]
		]
3]	Asst. Police Commissioner	]
	Sinhagad Division, Pune City	]
		]
4]	The State of Maharashtra	]..... Respondents

Mr. Priyal Sarda for the Petitioner.
Mrs. S D Shinde, APP for the Respondent/State.

**CORAM : S. S. SHINDE,
N. J. JAMADAR, JJ**

DATE : 17th August 2021

ORAL JUDGMENT (PER S.S. SHINDE, J)

1 Rule. Rule made returnable forthwith and heard with the consent
of the learned counsel for the parties.

2 By way of filing of this Writ Petition, the Petitioner takes an exception to the order dated 06th October 2020 passed by the 1st Respondent thereby rejecting the Appeal filed by the Petitioner against the order dated 18/05/2020 passed by the 2nd Respondent rejecting application of the Petitioner to release him on furlough leave.

3 The learned counsel appearing for the Petitioner, on instructions, submits that in case the Petitioner is released on furlough, the Petitioner is ready to stay at Shirwal, Tal. Khandala, Dist. Satara. The learned counsel for the Petitioner has tendered across the bar the copy of the affidavit of one Savitri Dattatraya Vitkar, who is ready to stand as a surety in case the Petitioner is released on furlough. The copy of the said affidavit is taken on record. The learned counsel for the Petitioner undertakes to place on record the hard copy of the affidavit within one week from today. The learned counsel for the Petitioner submits that the Petitioner is in jail since more than 8 years.

4 The learned APP appearing for the Respondents/State, relying upon the contents of the impugned orders, submits that the application filed by the Petitioner to release him on furlough leave has been rejected by the concerned Respondent/Authority on the reasonable ground that in case the Petitioner is released on furlough and he is allowed to enter into Pune city, in that case, there is a danger to the life of the informant and the witnesses.

5 We have given due consideration to the rival submissions made by the learned counsel for the parties and, with their able assistance we have carefully perused the pleadings and grounds taken in the Petition, and the reasons assigned by the concerned Respondents/Authorities in the impugned orders/

6 It appears that the main apprehension expressed in the impugned orders is that in case the Petitioner is released on furlough and he is allowed to enter into Pune city, in that case, there is a danger to the life of the informant and the witnesses.

7 As already observed, one Savitri Dattatraya Vitkar, resident of Shirke Colony, Moh. Tar Shirwal, Tal. Khandala, Dist. Satara, has filed her affidavit stating therein that she is ready to stand as a surety to the Petitioner in case he is released on furlough, and on completion of furlough period, she is ready to take responsibility to bring back the Petitioner to Yerawada Central Prison, Pune so as to undergo further sentence.

8 In view of the affidavit of the said Savitri Dattatraya Vitkar, in our opinion, the main reason given in the impugned order that in case the Petitioner is released on furlough and he is allowed to enter into Pune city, in

that case there is a danger to the life of the first informant and the witnesses, no more survives, and therefore, there is no reason why the Petitioner shall not be released on furlough.

9 Hence the following order.

A] The Writ Petition is allowed and the Petitioner shall be released on furlough on usual terms and conditions as stated in the relevant procedure.

B] After release, the Petitioner shall stay at Shirwal, Tal Khandala, Dist. Satara, that is the address given in the affidavit filed by the said Savitri Dattatraya Vitkar, and shall attend the Shirwal police station twice in a week i.e. on Wednesday and Sunday in between 11.00 am and 12 pm.

C] After completion of furlough period, the Petitioner shall surrender himself to Yerwada Central Prison, Pune for undergoing further sentence.

D] Rule is made absolute in the above terms. The Writ Petition stands disposed of.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]