

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1522 OF 2020

Sagar Ganpatrao Lohar

...Petitioner

**Versus**

The State of Maharashtra & Ors.

...Respondents

...

Advocate Harjeet Kaur for Petitioner.

Mrs. S.D. Shinde, APP for State.

...

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

DATE : 18<sup>th</sup> AUGUST, 2021.

ORAL JUDGMENT [PER S.S. SHINDE, J.]:

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

2. This petition is filed with following substantive prayer:-

*a) That this Hon'ble Court quash by Writ Order, direction quash the Order dated 04/02/2020 to rejecting the Appeal for Furlough Leave and Order dated 23/07/20219 rejecting the Furlough Leave Application of the Respondents;*

3. Learned counsel for the petitioner submits that the application filed by the petitioner for furlough leave has been turned down only on the ground that, when the petitioner was earlier released on parole, he did not report back in time, however, he surrendered late by 37 days. Learned counsel for the petitioner submits that an offence was registered for overstay by the petitioner for 37 days and the petitioner is punished for the same. Therefore, she submits that the reasons assigned in the impugned order are unsustainable.

4. On the other hand, the learned APP appearing for State relying upon the reasons stated in the impugned order submits that the petition may be rejected.

5. Upon appreciating the rival contentions and keeping in view the fact that the petitioner has already been punished for overstay of 37 days, there is no question of rejecting his application on that ground. If the application of the petitioner is turned down on that ground, it will amount to double jeopardy.

6. In that view of the matter and keeping in view the fact that the petitioner had already undergone 8 years, 1 month and 25 days actual imprisonment, we are inclined to allow this petition. Accordingly, the writ petition is allowed in terms of prayer clause (a).

7. Respondent No. 4 is directed to release the petitioner on furlough on fulfillment of procedural requirements.
8. The Petitioner after availing the furlough leave shall surrender before the jail authority in time.
9. Rule made absolute to the aforesaid extent. The writ petition stands disposed of.
10. Parties to act upon an authenticated copy of this order.

( N. J. JAMADAR, J.)

(S. S. SHINDE, J.)