

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1496 OF 2021

Vikas Bhimrao Mane
(Sarjerao S/o Bhimrao Mane
brother of the petitioner confined,
at Central Jail, Yerwada as convict
no. 17772), Age-32 years,
Occ- Job, R/o B-104, Saket Apartment,
Dange Colony, Nalasopara, West, Thane. **...PETITIONER**

Versus

1] The State of Maharashtra
 Through Inspector General of Prisons
 Pune.

2] Deputy Inspector General
 Prisons, Yerwada, Pune.

3] Superintendent
 Yerwada Central Prison, Pune.

...RESPONDENTS

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Mr. Rupesh Jaiswal for Petitioner.
Mr. K.V. Saste, APP for State.

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**CORAM : S. S. SHINDE &
 MANISH PITALE, JJ.**

**RESERVED ON : 22nd APRIL, 2021.
PRONOUNCED ON: 27th APRIL, 2021.**

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

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

2. The Petitioner who is brother of the cnovict has filed the
present petition for the following substantial reliefs:

B) By Writ of Mandamus, or appropriate Writ, order or direction in like nature to Quash and set aside order of Respondent No. 1 and No. 2 dated 1.3.2021 and 27.10.2020 respectively and thereby direct Respondent No. 3 to release Petitioner's brother (Sarjerao S/o Bhimrao Mane, Confined at Central Jail, Yerwada as convict no 17772) on Furlough Leave for 28 days and or,

3. The convict Sarjerao Mane is convicted for the offences under Section 302 of IPC for life. Learned counsel appearing for the Petitioner submits that the convict has undergone more than 4 years imprisonment and he is lodged in the Yerwada Central Prison, Pune. It is submitted that the application of the convict to release him on furlough was rejected on the ground that there is adverse police report. Therefore, learned counsel appearing for the Petitioner submits that, merely because there is adverse police report cannot be a ground to reject the application of the petitioner for furlough.

4. Learned APP appearing for Respondent-State submits that the prayer of the petitioner to release him on furlough has rightly been turned down by the respondent authority.

5. We have given careful consideration to the submissions of learned counsel appearing for the Petitioner and learned APP appearing for the Respondent-State. With the able assistance of

learned counsel appearing for the Petitioner and learned APP, we have perused the pleadings and grounds in the petition, annexures thereto, impugned order. Upon perusal of impugned order it appears that the application for furlough leave filed by the petitioner's brother has been rejected on the ground that as a matter of right the convict cannot be released on furlough. Secondly, the report submitted by the Sub Divisional Police Officer, Dahivadi Division, Camp Vaduj is adverse to the convict inasmuch as it is mentioned in the said report that the convict shall not be released on furlough. If he is released on furlough, he is not likely to report back to the jail authority.

6. In our opinion the apprehension expressed by the Sub Divisional Police Officer, Dahivadi Division, Camp Vaduj that in case the convict is released on furlough, he will not report back to the jail authority is not supported by the specific instances or reasons. In that view of the matter, the writ petition is partly allowed. The impugned orders dated 01.03.2021 and 27.10.2020, passed by Respondent No. 1 and 2, respectively, are quashed and set aside. The convict is granted liberty to apply afresh for grant of furlough within one week from today. Upon filing such an application, the respondent authority shall decide the same on its

own merits, as expeditiously as possible, however, within three weeks from the date of filing of the application in accordance with the Prisons (Bombay Furlough and Parole) Rules, 1959, and keeping in view the factors like the extent of spread of Covid-19 virus and conditions in jail.

7. Rule is partly made absolute to above extent. The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)