

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3296 OF 2021

VISHAL
SUBHASH
PAREKAR

Zuber Mohd. Kasam Shaikh

...Petitioner

vs.

The State of Maharashtra and Ors.

...Respondents

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VISHAL SUBHASH
PAREKAR
Date: 2021.09.24
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Mr. N.N. Gawankar i/b. Mr. Manas Gawankar for the Petitioner.
Mrs. A.S. Pai, PP for the Respondent-State.

CORAM : S. S. SHINDE &
N. J. JAMADAR, JJ.
DATE : SEPTEMBER 23, 2021

ORAL JUDGMENT (Per N.J.Jamadar,J.)

. Rule. Rule made returnable forthwith and having regard to the nature of prayer in the petition, heard finally.

2. Heard Mr. Gawankar, learned counsel for the petitioner and Mrs. Pai, learned PP for the respondent-State.

3. The substantive prayer in this petition is to extend the period of furlough, on which the petitioner was ordered to be released by this Court by judgment and order dated 3rd August, 2021, in Writ Petition No. 200 of 2021.

4. The substance of the petition is that pursuant to the

judgment and order dated 3rd August, 2021 passed by this Court the authorities have released the petitioner on furlough by order dated 8th September, 2021. The petitioner seeks extension of the period of furlough as the mother of the petitioner is unwell and has been hospitalized.

5. Mr. Gawankar, learned counsel for the petitioner would urge that the petitioner can not avail furlough or parole for a period of six months once he surrenders, in compliance with the order dated 8th September, 2021. He prays that the period of release on furlough be thus extended.

6. In opposition to this Mrs. Pai, learned PP invited our attention to the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018 whereby Rule 13, which provided for extension of the period of furlough, had since been deleted. Mrs. Pai, learned PP thus urged that under the extant rules there is no provision for extension of the period of furlough and thus the petition is not tenable.

7. On facts, Mrs. Pai, invited our attention to the medical

papers in respect of the mother of the petitioner. It was urged that she has been admitted in the hospital yesterday only. The petitioner has five brothers and two sisters and they can very well take care of the mother of the petitioner. Therefore, there is no justification to extend the period of furlough.

8. While directing the release of the petitioner on furlough by the judgment and order dated 3rd August, 2021, we had noted that the petitioner had undergone 16 years and 6 months actual imprisonment. There is not a single penalty or prison offence to the credit of the convict. Having regard to the entire gamut of the facts and circumstances, this Court was persuaded to direct the release of the petitioner on furlough.

9. Indisputably, Rule 13 of the Rules, 1959, which enabled the authorities to extend the period of furlough, has since been deleted. However, under the rules, furlough can be granted for a maximum period of 28 days, in a year. Since this Court has directed the release of the petitioner on furlough for a period of 14 days, we do not find that the deletion of rule 13 would be an impediment in extension of the period of furlough by this Court.

The object behind the release of a convict on furlough cannot be lost sight of.

10. The petitioner had been incarcerated for more than 16 years. Indisputably the mother of the petitioner is hospitalized. In the totality of the circumstance and in the peculiar facts of the case, we are of the view that it would be expedient in the interest of justice to extend the period of furlough by 14 days. We are thus inclined to allow the petition.

Hence, the following order.

ORDER

- 1] The petition stands allowed.
- 2] The period of furlough of the petitioner stands extended by 14 days to be computed from today.
- 3] The release of the petitioner on furlough shall be subject to the conditions imposed by this Court in the order dated 3rd August, 2021, and the competent authority by order dated 8th September, 2021.
- 4] Rule made absolute in aforesaid terms.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)