

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.91/2021

Diwesh S/o Prakash Aware,
Aged about 25 years,
R/o Plot No.8, Vaishnavi Apartment
Opp. Ram Mandir, Pumping Station
Road, Nashik.
(Convict No.C/10513, at present at
Nagpur Central Prison.)

..... PETITIONER

// VERSUS //

1. Deputy Inspector General (Prisons)
(Eastern Region), Nagpur.
2. The Superintendent,
Nagpur Central Prison, Nagpur.

..... RESPONDENTS

Ms S. B. Khobragade, Advocate for petitioner.
Ms N. Tripathi, A.P P for the respondents.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 26/02/2021

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

1] Heard learned counsel for the petitioner and learned APP
for the respondents who appear by waiving notice.

2] **Rule.** Rule made returnable forthwith. Heard finally by
consent.

3] The furlough application of the petitioner has been rejected on the ground that production warrant issued for the production before the criminal Court in RCC No.487 of 2014 being conducted for an offence punishable under Section 307 of the Indian Penal Code is pending for its execution. According to learned counsel for the petitioner, this is not any valid ground in law as, in the case of *Dinesh s/o Ashokrao Athawale Vs. Deputy Inspector General Prison East, Nagpur*, **Criminal Writ Petition 376 of 2020**, decided on 5th November 2020, the Co-ordinate Division Bench of this Court has taken a view that the furlough application of the petitioner deserve to be granted in spite of pendency of criminal case which was RCC No.89 of 2016 for offences punishable under Sections 376(D), 342, 452 and 506 of the Indian Penal Code.

4] Learned APP submits that the said writ petition had different facts as in that case there was no production warrant pending for its execution involved in the matter.

5] We agree with the ground of opposition taken by the learned APP. In the said Criminal Writ Petition No.376 of 2020 no issue like the one is involved in the present petition was there. In that case, production warrant was not pending for execution and whereas in the present case it is so. If the petitioner is granted furlough and accordingly released from the prison temporarily, it would certainly affect the

execution of the pending production warrant. Therefore, the said case would not help in any manner the cause shown by the petitioner in the present matter. As such, we find no infirmity in the impugned order.

6] The petition is rejected.

Rule is discharged.

(AVINASH G. GHAROTE, J)

(SUNIL B. SHUKRE J.)

Sarkate.