

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETN. NO. 117 OF 2021

PETITIONER :- Abdul Hasan Bande Mistry, aged about 47 years, R/o. 301, pass Roze Apartment, Navpada, Manikpur, Tah.Wasai (West), Tah. Wasai, District Palghar.
(C-2475-Presently at Central Prison, Amravati).

...VERSUS...

RESPONDENTS :- 1] Deputy Inspector General Prison, East, Nagpur.
2] Superintendent, Central Prison, Amravati.

Ms Ragini Zarbade, Advocate h/f Mr.A.A.Dhawas,
Advocate for the petitioner.
Mr. T.A. Mirza, A.P. P. for the respondents.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.

DATED : 20.04.2021.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.
3. By this writ petition under Articles 226 and 227 of the

Constitution of India, the petitioner is challenging order dated 02/12/2020 passed by respondent No.1 rejecting furlough leave application of the petitioner. The petitioner has been convicted for the offences punishable under sections 302 of the Indian Penal Code read with section 3(1)(i) of MCOC Act, 1999 read with sections 109, 307 of Indian Penal Code read with section 3(1)(ii) of MCOC Act, 1999 read with sections 109, 120(b), 326, 324, 34, 109, 120(b), 201, 120(b) of the Indian Penal Code. The petitioner has undergone imprisonment for a period of 11 years and 4 months. The petitioner has been lodged in the Amravati Central Prison.

4. The petitioner had applied for furlough leave before respondent No.1 on 30/08/2020. The respondent No.1 by impugned order rejected the furlough leave application of the petitioner on the ground that the Deputy Commissioner, Palghar had submitted adverse report against the petitioner. It is also stated that the Superintendent of Amravati Prison had not recommended release of the petitioner. It is stated that on earlier occasion when the petitioner was released on furlough leave, he surrendered late by 2283 days and was required to be arrested.

5. We have carefully considered the impugned order passed by respondent No.1. The impugned order discloses that in the year

2012 when the petitioner was released on furlough leave, the petitioner surrendered late by 2283 days after due date. It is also stated that the petitioner was required to be arrested. The impugned order relies on judgment of this Court in *Criminal Writ Petition No.62 of 2016* in the case of *Bandu @ Hemant Yadaoraoji Kothe v. State of Maharashtra*, decided on 16/03/2016.

6. Having considered the reasons stated in the impugned order and in view of the judgment of this Court in the case of ***Murlidhar Ramchandra Bhalerao v. State of Maharashtra***, reported in ***2011 ALL MR (Cri.) 2132***, we do not find any illegality in the impugned order passed by respondent No.1. The petition has no merit and the same is dismissed.

7. Rule stands discharged.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)