

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

CRIMINAL WRIT PETITION NO. 454 OF 2021

Pawan s/o Mohan Gedam (10287) Age about 31 years, Occu. Nil, R/o Gawlipura Ramaai Nagar, Near Dr. Ambedkar Vachnalay, Kamptee, Tah. Kamptee Dist. Nagpur (MH)	}	.. <u>PETITIONER</u>
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Versus

1 Deputy Inspector General of Prison (East Region), Nagpur.	}	.. <u>RESPONDENTS</u>
2. Superintendent of Jail, Central Prison, Nagpur	}	

Mr. Aakash S. Sorde, Advocate for petitioner
Mrs. Nandita Tripathi, A.P.P for respondents / State

**CORAM: V.M. DESHPANDE, &
AMIT B. BORKAR, JJ.**

DATE : SEPTEMBER 21, 2021

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

Heard. **Rule.** Rule made returnable forthwith.

2. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner is challenging order at Annexure – A, passed in November 2020, thereby refusing to grant furlough leave of 28 days.

3. The petitioner is convicted for offences under Sections 147, 148, 149, 4(25) and 302 of the Indian Penal Code and is undergoing imprisonment for life. The petitioner had undergone imprisonment for more than five years. The petitioner applied for grant of furlough leave on 04/08/2020. The respondent No.1 called for report from the Commissioner of Police, Nagpur and since the report was adverse and since earlier the petitioner was released on parole did not report back in time and therefore, he was arrested after 1051 days. The respondent No.1 therefore, rejected the furlough leave application of the petitioner.

4. The petitioner is therefore, challenging the order by way of present Writ Petition. This Court on 30/06/2021, issued notice to respondents. The respondent No.2 has filed reply stating that police report is adverse to the petitioner. In addition to the said fact, when the petitioner was released earlier on 20/05/2015, the petitioner was required to be arrested and brought back to the Prison on 20/04/2018. The petitioner was late by 1051 days.

5. Having considered the grounds stated in the impugned order and the reply that the petitioner was required to be arrested earlier when he was released on leave. The petitioner was brought back late by 1051 days. Taking into consideration the said fact, we are of the view of that the respondent No.1 was justified in rejecting furlough leave application of the petitioner.

6. We therefore, pass the following order :

- i. The Writ Petition is dismissed.
- ii. However, we are hereby clarified that the petitioner shall be entitled to make application for furlough leave after expiry of period of 18 months, if the petitioner is otherwise eligible for the said leave.

7. The Writ Petition is disposed of in above terms.

8. Rule is discharged.

JUDGE

JUDGE

MP Deshpande