

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

CRIMINAL WRIT PETITION NO.561 OF 2021

Parimal Mukund Pawar,
Aged 29 years,
R/o. Mirjole, Padavewadi,
Panchsheel Nagar,
Tah. & Distt. Ratnagiri.
(C-5530- Presently at Central Prison,
Amravati.)

....PETITIONER

---- VERSUS ----

1. Deputy Inspector General Prison,
East, Nagpur.
2. Superintendent Central Prison,
Amravati.

.... RESPONDENTS

Ms. P. M. Mane, Advocate h/f. Shri S. D. Chande, Advocate for Petitioner.
Shri V. A. Thakare, A.P. P. for the Respondents/State.

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

DATE : 03.09.2021.

ORAL JUDGMENT : [PER: AMIT B. BORKAR, J.]

1. Heard.
2. Rule. Rule made returnable forthwith.
3. By this writ petition under Article 226 and 227 of the Constitution of India, the petitioner is challenging order dated 24.12.2020 passed by the respondent No.1 rejecting furlough leave of the petitioner.

4. The petitioner is a convict for the offence punishable under Section 302 of the Indian Penal Code, and is undergoing sentence for life imprisonment.

5. The petitioner on 04.12.2020 applied for his release on furlough leave of 21 days. The respondent No.1 by order dated 24.12.2020 rejected the furlough leave application of the petitioner on the ground that the police report is adverse to the petitioner.

6. The petitioner has therefore challenged the said order by way of filing present petition. This Court on 06.08.2021 issued notice to the respondents. The respondent No.2 has filed reply stating that the police report is adverse to the petitioner.

7. On scrutiny of the impugned order, which is based on the adverse police report, we find that the respondent No.1 has not referred any material on the basis of which, apprehension is expressed in the order can be justified. On careful consideration of the police report and the impugned order, we do not find basic material, which would entitle the respondent No.1 to reject the application. Merely because the police report is adverse, the said act by itself, is not sufficient to reject furlough leave application of a prisoner unless there is material placed on record to justify the apprehension. In absence of such material the respondent No.1 was

not justified in rejecting the furlough leave application of the petitioner.

8. We, therefore, pass following order :

i. The impugned order dated 24.12.2020 passed by the respondent No.1 rejecting the furlough leave application of the petitioner is quashed and set aside.

ii. The respondent No.1 is directed to release the petitioner on furlough leave for a period of 21 days on such terms and conditions which may be permissible in law as per Rules of the Prisons (Bombay Furlough and Parole) Rules, 1959 and shall not impose unreasonable conditions.

9. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE