

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

CRIMINAL WRIT PETITION NO.576 OF 2021

Subham S/o. Suresh Tekam,
Aged about 25 years,
R/o. Parva, Post Talegaon (Bhari),
Tah. & Distt. Yavatmal.
(C/5777, Central Prison, Amravati). **....PETITIONER**

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1. Deputy Inspector General of
Prison (East Region), Nagpur.
2. Superintendent of Jail,
Central Prison, Amravati. **.... RESPONDENTS**

Ms. P. M. Mane, Advocate h/f. Shri S. D. Chande, Advocate for Petitioner.
Ms N. R. Tripathi, 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 16.06.2021 passed by the respondent No.1 thereby refusing furlough leave of the petitioner for a period of 21 days.

4. The petitioner is a convict for the offence punishable under Sections 302, 149 read with Section 34 and 120-B and Sections 302, 143, 147, 148 of the Indian Penal Code, and is undergoing sentence for life imprisonment. The petitioner has undergone imprisonment for 3 years and 6 days.

5. The petitioner on 21.04.2021 applied for his release on furlough leave of 21 days. The respondent No.1 by order dated 16.06.2021 rejected the application for furlough leave on the ground that the police report is adverse to the petitioner and therefore, the petitioner is not entitled for release.

6. The petitioner has therefore filed present petition challenging the order dated 16.06.2021 by way of the present petition. This Court on 11.08.2021 issued notice to the respondents. The respondent No.2 has filed reply dated 21.08.2021. It is stated in the reply that since the police verification report is adverse to the petitioner, the respondent No.1 has rightly rejected the furlough application of 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 :

9. The impugned order dated 16.06.2021 passed by the respondent No.1 rejecting the furlough leave application of the petitioner is quashed and set aside.

10. 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.

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

JUDGE

JUDGE