

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

CRIMINAL WRIT PETITION NO.572/2020

Ranjit Badri Rai,
Aged about 28 years,
R/o Manpuraka Tola,
Post Kopabhatwalla, Ribirganj,
Chapra (Saran), Bihar State
Convict No. C/95, At present
at Gadchiroli Open Prison)

..... PETITIONER

// VERSUS //

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

.... RESPONDENTS

None for the petitioner.
Mrs. H. N. Jaipurkar, APP for the respondents.

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

DATED : 12/01/2021

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

1] Nobody is present for the petitioner. Heard learned APP for the respondents.

2] Rule. Heard forthwith finally.

3] The petitioner is seeking his relief on furlough and that he has also been ordered to be released on furlough subject to the petitioner furnishing a surety. This order of the release on furlough is not being materialized only for the reason that petitioner now is not in a position to furnish surety to the satisfaction of the Jail Authority.

4] It is the contention of the petitioner that in certain circumstances, a petitioner can be released on furlough on his execution of a personal bond. According to him, the fact of the petitioner having been transferred to the open prison, Gadchiroli is relevant and it should by itself give an assurance to the Authorities that there would be no possibility of the petitioner committing any breach of the conditions of furlough including the condition about his surrender before the Jail Authorities on the due date.

5] The Full Bench by this Court in the case of *Dipak s/o Sudhakar Wakalekar Vs. State of Maharashtra and Ors.*, **2011 ALL MR (Cri.) 1933**, has taken a view that a convict confined in open prison can be released on furlough, by dispensing with requirement of execution of bond by the relatives. It is thus clear that there is no legal impediment in releasing the petitioner on furlough upon execution of his personal bond. The only question is as to whether or not there are facts and circumstances present in this case, which would warrant the release of the petitioner on furlough merely on his personal

bond and according to us the answer has to be provided in the affirmative. The reason being that the petitioner has been already transferred to an open prison, where the conditions in which the prisoners are kept are very different from those prevailing in the closed prison. In open prison, admittedly, there is lot of freedom of movement given to the inmates of prison and this is done because of the assurance forthcoming from good conduct of the prisoners. Therefore, we are of the view that even in the present case, the petitioner being an inmate of open prison, would be entitled to be released on furlough upon execution of his personal bond. This is all the more so because there is no material placed on record that the petitioner has committed any act of indiscretion or disobedience while undergoing sentence as an inmate of open prison.

6] In the result, the petition is allowed. The respondents are directed to release the petitioner on furlough on execution of his personal bond in the sum as may be reasonably stipulated by the respondents and upon such conditions as are permissible under the rules.

Rule is made absolute.

JUDGE

JUDGE