

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

CRIMINAL WRIT PETITION NO. 645 OF 2021

(Shri Gajanan Babulal Battulwar, C-9971 (Presently in Central Prison Nagpur) Vs. State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.

Court's or Judge's orders.

Shri Raju Kadu, Advocate for the petitioner.
 Mrs. N.R. Tripathi, A.P.P. for the respondents.

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CORAM: M.S. SONAK &
PUSHPA V. GANEDIWALA, JJ.
OCTOBER 26, 2021.

Heard learned counsel for the parties.

2] This is a petition to challenge the impugned order by which the petitioner has been denied Furlough.

3] In the reply filed on behalf of the respondents, the following particulars have been provided insofar as the petitioner's Furlough and Parole leave status is concerned :

The details of Furlough leave -

Sr. No.	Particulars	Date of Release	Due for surrender	Remarks
1	Furlough Leave 14 days (Ext. 14 days)	02.05.2008	Not surrender on due date	Surrender himself but late by 3 days i.e. on 03.06.2008

2	Furlough Leave 14 days (Ext. 14 days)	15.02.2011	Not surrender on due date	Surrender himself but late by 27 days i.e. on 11.04.2011
3	Furlough Leave (14 days (Ext. 14 days) as per direction issued by Hon'ble High court Nagpur	12.12.2013	Not surrender on due date	Surrender himself but late by 21 days i.e. on 31.01.2014
4	Furlough Leave (14 days (Ext. 14 days) as per direction issued by Hon'ble High court Nagpur	30.07.2014	Not surrender on due date	Surrender himself but late by 01 days i.e. on 29.08.2014
5	Furlough Leave (28 days)	05.06.2016	Surrender on due date	Surrender himself on due date i.e. on 03.04.2016
6	Furlough Leave (28 days)	25.02.2017	Surrender on due date	Surrendered himself on due date i.e. on 26.03.2017
7	Furlough Leave (28 days)	01.03.2018	--	Arrested by the police authority and brought back to the prison before 15 days and offence under section NDPS act was registered against the petitioner.

The details of Parole leave -

1	Parole leave 30 days (ext. for 30 days)	08.05.2007	Not surrender on due date	Surrendered himself but late by 3 days i.e. on 10.07.2007
2	Parole leave 30 days (ext. for 60 days)	20.12.2008	Not surrender on due date	Surrendered himself but late by 02 days i.e. on 23.03.2009
3	Parole leave 30 days (ext. for 30 days)	08.09.2009	Not surrender on due date	Surrendered himself but late by 38 days i.e. on 16.12.2009
4	Parole leave 30 days (ext. for 60 days)	30.04.2010	Not surrender on due date	Surrendered himself but late by 16 days i.e. on 14.08.2010
5	Parole leave 30 days (ext. for 30 days)	16.06.2011	Not surrender on due date	
6	Parole leave 15 days (ext. for 55 days)	26.03.2013	Not surrender on due date	Surrendered himself but late by 06 days i.e. on 11.06.2013
7	Parole leave 30 days (ext. for 60 days)	19.11.2014	Not surrender on due date	Surrendered himself but late by 01 days i.e. on 19.02.2015

4] The circumstance that the petitioner surrendered after the due date on some occasions can be overlooked provided the conduct of the petitioner is otherwise proper. However, we note that on most occasions, the petitioner has not surrendered on the due date. Further, we note that on 01/03/2018, when the petitioner was released on Furlough, he had to be arrested and brought back to prison because of an offense under the Narcotics Drugs and

Psychotropic Substances Act, 1985 was registered against the petitioner. Having regard to such conduct, we feel that the impugned order does not warrant any interference.

5] At the same time, we are conscious that at this stage, the petitioner cannot change his past record. Therefore, dismissal of this petition is likely to be construed as our sanction to never consider the case of the petitioner for grant of Parole or Furlough in the future. This, according to us, would be a quite unintended result of our order of the dismissal of this petition.

6] Therefore, we clarify that though we are not interfering it, the impugned order, in this case, the same need not come in the way of the authorities considering any future applications made by the petitioner seeking Parole or Furlough if, otherwise, such application can be granted in terms of the rules and regulations as applicable. In particular, we feel that if the conduct of the petitioner in the prison for the next six months is found to be good then, Parole or Furlough need not be declined to the petitioner based on his past record alone. No doubt, some stringent conditions can be imposed upon the petitioner to ensure that he returns in time or that he

does not indulge in any criminal activities while he is released on Parole or Furlough.

7] With the aforesaid observations, clarifications, and liberty, we dispose of this petition. There shall be no order for costs.

(PUSHPA V. GANEDIWALA, J.) (M.S. SONAK, J.)

Sumit