

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

CRIMINAL WRIT PETITION NO. 666 OF 2021

Shri Ravi Baliram Uikey, C-8169,
aged about 38 years, Occ. Nil.
(Presently in Central Prison, Nagpur).

...PETITIONER

Versus

1. State of Maharashtra,
through Deputy Inspector General of Prison,
Eastern Region, Nagpur.
2. Superintendent of Jail,
Central Prison, Nagpur, Dist. Nagpur.

...RESPONDENTS

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

.....

**CORAM : M.S. SONAK AND
PUSHPA V. GANEDIWALA, JJ.
DATED : NOVEMBER 23, 2021.**

ORAL JUDGMENT (PER : PUSHPA V. GANEDIWALA, J.) :

Rule. Rule is made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. The challenge in the present Writ Petition is to the order dated 03/12/2020 passed by respondent No.1 – Deputy Inspector General of Prison, Eastern Region, Nagpur, whereby respondent No.1 has rejected the application of the petitioner for grant of furlough leave of 28 days.

3. The petitioner is a convict and undergoing sentence of life imprisonment in Central Prison, Nagpur for the offence punishable under Sections 302, 143, 147, 148 and 149 of the Indian Penal Code. The petitioner has already undergone imprisonment for a period of around seven years.

4. The application for furlough leave of the petitioner came to be rejected on the solitary ground that in the year 2011, when he was released on furlough leave, he out-stayed for 1265 days and he was required to be arrested and brought back to prison.

5. The affidavit-in-reply on behalf of the State also does not indicate any other ground except the above one.

6. Mr. Raju Kadu, learned counsel for the petitioner, submits that since then he has never applied for grant of furlough or parole leave. The petitioner has already booked for the offence punishable under Section 224 of the Indian Penal Code for his late surrender by 1265 days in the year 2011. In support of his submission, the learned counsel relied on the judgments of this Court in the case of i) Ajaj Khan Vs. Deputy Inspector General (Prison) (East), Nagpur & Anr. [Criminal Writ Petition No. 393/2017 d/on 21/07/2017]; ii) Firdos Khan Jabaz Khan Vs. Deputy Inspector General (Prison) (East), Nagpur & Anr. [Criminal Writ Petition No. 394/2017 d/on 21/07/2017]; iii) Hasan Khan Jabaz Khan Vs. Deputy Inspector General (Prison) (East), Nagpur & Anr. [Criminal Writ Petition No. 967/2017 d/on 22/11/2017]; and iv) Anil Laxman Javade Vs. State of Maharashtra & Anr. [Writ Petition No. 913/2019 d/ on 30/06/2020).

The learned counsel submits that in all the aforecited cases, this Court passed orders in favour of the petitioners therein, in somewhat similar circumstances.

7. Per contra, Mrs. Tripathi, learned A.P.P, opposed the petition through the reply affidavit filed on record.

8. We have considered the rival submissions put forth on behalf of both the sides and perused the record.

9. At the outset, the eligibility of the petitioner for grant of furlough leave is not disputed except that he has defaulted in surrendering himself at the appropriate time after his release on furlough in the year 2011. The learned A.P.P does not dispute that since 2015, the petitioner has not been released either on furlough or parole leave.

10. In the aforecited judgments delivered by this Court, relied on by the learned counsel for the petitioner, this Court in more or less similar circumstances directed release of the petitioners on furlough leave even after they failed to surrender at the appropriate time.

11. In the case in hand, we are satisfied that since 2015, the petitioner has not been released on furlough or parole leave. The objectives for grant of furlough or parole leave to

the inmates, i.e., the progressive measures of correctional services are a) to enable the inmate to maintain continuity with his family life and deal with family matters; b) to save him from evil effects of continuous prison life; c) to enable him to maintain and develop his self- confidence; d) to enable him to develop constructive hope and active interest in life.

12. Having regard to the avowed objectives for grant of parole and furlough leave, which came to be inserted vide notification No. MIS-1316/C.R.669/16/PRS-3 dated 16/04/2019 and considering the ratio laid down in the aforesaid judgments, in our considered view, one opportunity needs to be granted to the petitioner to show his bonafide.

13. In this view of the matter, we quash and set-aside the impugned order dated 03/12/2020 passed by respondent No.1 – Deputy Inspector General of Prison, Eastern Region, Nagpur. Respondent No.2 is directed to release the petitioner on furlough leave for 28 days on his executing PR. bond in the sum of Rs.50,000/- with one surety in the like amount and with cash surety of Rs.25,000/- with further additional conditions to the satisfaction of respondent No.2 to secure the

presence of the petitioner after the leave period is over.

14. Rule is made absolute in the aforesaid terms. Writ
Petition is disposed of.

(PUSHPA V. GANEDIWALA, J.)

(M.S. SONAK, J.)

Sumit