

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

CRIMINAL WRIT PETITION NO.721 OF 2021

Rajput alias Nabut Patiram Parteki,
Aged about 32 years,
R/o Near Gopal Gaidhane's House,
Umred Road, Siraspeth, Nagpur.
(C/8756, Central Prison, Nagpur)

...PETITIONER

...V E R S U S...

1. Deputy Inspector General of Prison
(East Region), Nagpur.

2. Superintendent of Jail,
Central Prison, Nagpur.

...RESPONDENTS

Ms S.B. Khobragade, Advocate for petitioner.
Ms N.R. Tripathi, A.P.P. for respondents.

CORAM:- M.S. SONAK AND PUSHPA V. GANEDIWALA, JJ.
DATE :- 16th DECEMBER, 2021

ORAL JUDGMENT : (M.S. SONAK, J.)

Heard Ms. S.B. Khobragade, learned counsel for the petitioner, and Ms. N.R. Tripathi learned Additional Public Prosecutor for the respondents.

2. **Rule.** The Rule is returnable forthwith at the request of and with the consent of the learned counsel for the parties.

3. The petitioner challenges the impugned order by which furlough has been declined to him. The only ground set out

in the impugned order is that sometime in the year 2011, the petitioner had been granted furlough but the petitioner jumped the conditions and had to be apprehended after almost 935 days to suffer the rest of the imprisonment.

4. There is no question condoning the lapse on the part of the petitioner. However, the record bears out that the petitioner was already convicted under Section 224 for this lapse. Besides, there is a record that since 2013, the conduct of the petitioner is quite good. Ms. Khobragade, learned counsel pointed out that that the petitioner is also been appointed as the watchman at the prison and this position is not disputed in reply filed on behalf of the respondents. In similar circumstances, this Court, vide judgment and order dated 23.11.2021 in Criminal Writ Petition No.666 of 2021 granted relief to the prisoner though the record has indicated his late surrender in the year 2011. To grant such relief, this Court relied upon several earlier precedents on the issue.

5. Therefore, for the aforesaid reasons as also the reasoning in our judgment dated 23.11.2021 in Criminal Writ Petition No.666 of 2021 we think that the present petitioner is entitled to relief.

6. Accordingly, we quash the impugned order dated 30.07.2021 and direct the respondents to release the petitioner on furlough leave for 28 days on his executing PR bond in the sum of Rs.50,000/- with one solvent surety in the like amount and cash surety of Rs.25,000/-. The respondents are at liberty to impose such other and further conditions to ensure the return of the petitioner after availing of furlough leave. However, it is made clear that such conditions should be reasonable and not aimed at frustrating the relief that we have now granted to the petitioner.

7. The respondents to issue necessary orders within 15 days from today.

The rule is made absolute. There shall be no order for costs.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)

Wagh