

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

CRIMINAL WRIT PETITION NO.769 OF 2021

Kattu @ Rahul s/o Chiyalal Pardhi
(Thakur)

..

Petitioner

Versus

State of Maharashtra and one

..

Respondents

Mr. A.Y. Sharma, Advocate for the petitioner,
Ms. N.R. Tripathi, APP for the respondents.

**Coram: M.S. Sonak and
Pushpa V. Ganediwala, JJ.**

Date: December 01, 2021.

P.C.

Heard Mr. A.Y. Sharma, learned counsel for the petitioner, and Ms. N.R. Tripathi learned APP for the respondents-State.

2. The petitioner assails the order declining his furlough. The record, in this case, indicates that the petitioner has been convicted under the provisions of the Wild Life (Protection) Act, as also under Section 224 of the Indian Penal Code. The record further indicates that after the commission of the offenses, which involved even the killing of a tiger in a protected area, the applicant, was absconding. Ms. Tripathi pointed out that efforts had to be made to trace the applicant and it was only after great difficulty that he was traced.

3. In the return filed by the respondents, details have been provided about the cases in which the applicant has been convicted and sentenced.

4. It is well settled that the right of release on a furlough is not absolute. In this case, the authorities have considered the application of the applicant. The impugned order *inter alia* records that this applicant had escaped from the police custody while he was taken to the court to face the prosecution. The impugned order refers to the distinct possibility of the applicant not returning to the prison or jumping furlough if the benefit of the furlough is extended to the petitioner. Relevant considerations have been taken into account.

5. Rule 4 (10) of the Prisons (Bombay Furlough and Parole) Rules, 1959, provides that the petitioners who have at any time escaped or attempted to escape from lawful custody may not be eligible for furlough. Similarly, Rule 4 (20) of the said Rules provides that the persons, who in the opinion of police/prison authorities are likely to jump furlough, may also not be eligible for furlough. These may not always be inflexible but where the material on record suggests a proclivity to jump parole or furlough, such concessions cannot be insisted upon.

6. In this case, the opinion formed by the prison authorities is based on relevant material borne out from the record. This case concerns a convict who has committed crimes against victims that cannot themselves complain. Considerable time and energy will have to be deployed to

apprehend the Petitioner if he jumps the furlough. The Petitioner has demonstrated distinct proclivity to make himself scarce or to escape lawful custody. Having regard to such material on record, we cannot say that the opinion expressed by the prison authorities is either unreasonable or is otherwise vitiated.

7. Therefore, we think that this is not a fit case to interfere with the impugned order. The petition is therefore **dismissed**. There shall be no order for costs.

Pushpa V. Ganediwala, J.

M.S. Sonak, J.