

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

CRIMINAL WRIT PETITION NO. 794 OF 2021

Asgar Kadar Sheikh,
Convict No. C/6473, aged about 55 years,
Presently at Central Prison, Nagpur.

...PETITIONER

Versus

1. Deputy Inspector General (Prisons),
Nagpur.
2. The Superintendent Central Prison,
Nagpur.

...RESPONDENTS

Mr. M.N. Ali, Advocate for the petitioner.
Mrs. N.R. Tripathi, A.P.P. for the respondents.

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

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

Heard Mr. Ali, learned counsel for the petitioner,
and Mrs. Tripathi, learned A.P.P. for the respondents/ State.

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

3. The challenge in this petition is to the order dated 01/09/2021 by which the respondents have reviewed their earlier order dated 03/08/2021 and denied the petitioner furlough.

4. The record indicates that before making the impugned order and taking away the benefits of furlough that has already been granted to the petitioner, no opportunity of hearing was granted to the petitioner.

5. That apart, the concerned respondents have failed to advert to our judgment and order dated 18/09/2018 in Criminal Writ Petition No. 351/2018 instituted by this very petitioner where, after considering the provisions of Rule 4(13) of THE PRISONS (Bombay Furlough and Parole) Rules, 1959, directions were issued to release the petitioner on furlough.

6. The record in this case indicates that the authorities themselves had thereafter released the petitioner on furlough, and the petitioner had complied with the terms and conditions subject to which he was so released. In the return filed in this

matter, a chart is given at paragraph 12 which indicates that out of 12 occasions on which the petitioner was released on furlough, he has surrendered on or before the due date on 11 occasions. On one of the occasions, he surrendered by himself but with delay of one day. This was in the year 2011.

7. Having regard to the record of the petitioner as also our earlier decision in Criminal Writ Petition No. 351/2018, we set-aside the impugned order dated 01/09/2021 and restore the order dated 03/08/2021 made by the respondents.

8. Rule is made absolute in the aforesaid terms. There shall be no order for costs.

(PUSHPA V. GANEDIWALA, J.)

(M.S. SONAK, J.)

Sumit