

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

CRIMINAL WRIT PETITION NO. 707 OF 2022

Raosaheb Narayan Shelke

Convict No. 8446

.. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Rupesh A. Jaiswal, Advocate for the Petitioner.

Shri R. V. Dasalkar, A.P.P. for Respondent Nos. 1 and 2.

**CORAM : SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.**

DATE : 14TH JUNE, 2022.

PER COURT :

. This is a writ petition challenging the order dated 20th April, 2022, by which the petitioner's application for furlough leave is rejected by the D.I.G. (Prison), Central Division, Aurangabad. The reason mentioned in the said order is that in the past the petitioner had not surrendered, when he was granted furlough leave and he was required to be arrested by the police. Therefore, the Superintendent has not recommended for furlough leave.

2. Learned counsel for the petitioner invited our attention to another order dated 20th July, 2021 annexed at Exhibit – B to

this petition. By that order the same authority had granted furlough leave to the petitioner. Learned counsel for the petitioner submitted that, pursuant to said order, the petitioner had surrendered within time. That particular order and the petitioner's conduct of surrendering within time was not considered by the same authority. The application for furlough leave was rejected vide order dated 20th April, 2022. He therefore submitted that, this shows non application of mind on the part of the authority.

3. Learned Assistant Public Prosecutor for respondent Nos. 1 and 2 has opposed this petition and supported the order passed by the authority relying on the contents of the order dated 20th April, 2022.

4. Learned A. P. P. does not have instructions as to whether the petitioner had surrendered within time pursuant to the order dated 20th July, 2021. However, considering the statement made in the petition at ground No. B, it is necessary for the authority to consider this aspect of the matter, therefore we pass following order.

4. The petitioner is at liberty to file a fresh application for furlough leave to the same authority. Once this application is filed, the authority shall decide the application expeditiously as per the rules. While deciding that application of the petitioner for furlough leave, the order dated 20th July, 2021 passed by the

same authority as well as the applicant's conduct of surrendering within time shall be taken into consideration. With these observations the criminal writ petition is disposed of.

[BHARAT P. DESHPANDE, J.]

[SARANG V. KOTWAL, J.]

bsb/June 22