

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

**CRIMINAL APPLICATION NO. 1955 OF 2020
IN
CRIMINAL WRIT PETITION NO. 1673 OF 2019**

The State of Maharashtra,
Through Inspector General,
Prison, Pune and others

.. Applicants

Versus

Shaikh Mohd. Rafiq Abdul Samed,
(C-8358) Central Prison,
Aurangabad

.. Respondent

Mr. S. J. Salgare, APP for the Applicants.
Mr. R. A. Jaiswal, Advocate for the Respondent.

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

DATED : 28th JUNE 2022.

PER COURT :-

. This is an application for recalling the order dated 11.03.2020 passed by the Division Bench of this Court (Coram : T. V. Nalawade and M. G. Sewlikar, JJ.) in Writ Petition No. 1673 of 2019. The present application is preferred by the State of Maharashtra.

2. Vide the aforementioned order dated 11.03.2020 following order was passed :

- I. The petition is allowed.
- II. The impugned order dated 9th July, 2019, passed by the respondent No. 2. Deputy Inspector General of Prisons, Aurangabad rejecting the furlough leave application is hereby quashed and set-aside.
- III. The furlough leave application is allowed.
- IV. The petitioner/prisoner is to be released on usual terms and conditions on furlough leave.
- V. The decision is to be taken within 15 days from today.
- VI. If the surety of mother is given it is to be accepted.
Rule is made absolute in above terms.
Authenticate copy is allowed to both the sides.”

3. Learned APP seeks recalling of this order by making reference to previous order passed in the same writ petition on 02.12.2019, which reads thus :

- “1. In view of the circumstances that the fine amount of Rs. 5,35,000/- is not yet deposited, this Court wants to ascertain the *bona fides* of the petitioner in that regard.
2. Learned counsel for the petitioner seeks time. Stand over to 12th December, 2019, in urgent category.
3. Report is taken on record.”

4. Learned APP therefore submitted that after the Court had observed that, the Court wants to ascertain the *bona fides* as the fine amount was not deposited the matter was adjourned and then the final order was passed.

5. The learned APP was unable to point out any rule which requires

the convicts to make payment of fine amount before the grant of furlough leave. After the order dated 02.12.2019, the Bench presided over by the Justice Shri T. V. Nalawade had passed the final order allowing the petition. Therefore, in our opinion there is neither any requirement, nor judicial propriety in interfering with the order passed by a Coordinate Bench of this Court.

6. In this view of the matter, application for recalling of the said order cannot be entertained and is accordingly disposed of.

(BHARAT P. DESHPANDE)
JUDGE

(SARANG V. KOTWAL)
JUDGE

PS.B.