

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

**921 CRIMINAL WRIT PETITION NO.1554 OF 2022**

MD. ISMAIL NOORMOHAMMAD (C-5268)

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr.Rupesh A. Jaiswal

APP for Respondents : Mr.M.M.Nerlikar

...

**CORAM : MANGESH S. PATIL &  
ABHAY S. WAGHWASE, JJ.**

**DATE : 11 November, 2022**

**PER COURT :-**

. Heard both the sides.

2. Mr.R.A.Jaiswal, learned Advocate for the petitioner submits that the petitioner is inmate of open prison at Paithan but by the order under challenge, while granting furlough leave, a condition of furnishing surety has been imposed, which is not sustainable in law.

3. In the case of *Dipak s/o. Sudhakar Wakalekar vs. State of Maharashtra & Ors.*; 2011 ALL MR (Cri.) 1933, it has been laid down by the Full Bench of this Court that as per the proviso to Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959, a convict confined in open prison can be released on furlough by

dispensing with requirement of execution of bond by relatives.

4. In the light of above, we allow the writ petition and quash and set aside the portion of the directions in clause No.1 of the order dated 13-10-2022 / 10-10-2022 directing the petitioner to furnish "a guarantor and a surety bond".

5. The respondent Nos.1 and 2 shall release the petitioner on furlough leave pursuant to the order within seven days from today.

**( ABHAY S. WAGHWASE )**  
**JUDGE**

**( MANGESH S. PATIL )**  
**JUDGE**

SPT