

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1636 OF 2022

HEMRAJ BABU RATHOD (C-5235)
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Ms. Chate Sharada P.
APP for Respondents _ - State : Mr. M. M. Nerlikar
...

CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE : DECEMBER 01, 2022.

ORDER :-

. Present petition has been filed invoking the constitutional powers of this Court under Article 226 and 227 of the Constitution of India together with provisions of Rule 6, Proviso 10 of the (Bombay Furlough and Parole Rules, 1959).

2. Heard learned Advocate for the petitioner. Learned APP waives notice for all the respondents.

3. The present petitioner has been granted furlough leave by order dated 21.09.2022 under the orders of respondent No.3 on certain conditions. The first condition is that he should deposit cash surety of Rs.10,000/- and give personal bond of Rs.5,000/- as well as guarantor/surety bond of Rs.5,000/-. Learned Advocate for the

petitioners is relying on the full bench decision of this Court in ***Dipak s/o Sudhakar Wakalekar Vs. State of Maharashtra and Ors. [2011 ALL MR (CRI.) 1933]***, wherein it has been reiterated that a convict confined in open prison can be released on parole by the authorities by dispensing with requirement of execution of bond by the relatives.

4. Here, the petitioner is also a convict of the open prison. In the petition he has stated that he is unable to pay cash surety as his family is poor. Under such circumstance, indulgence of this Court has been prayed and the learned Advocate for the petitioner submits that the petitioner is ready to deposit cash surety to the extent of Rs.2,000/-. It is also submitted that the other conditions would be fulfilled by the petitioner.

5. Taking into consideration the fact that he is in jail since last around 12 years and he has stated that his family members are poor, it would be appropriate to modify the first condition imposed in the said order dated 21.09.2022 passed by respondent No.3. Hence, the following order :-

ORDER

- I) The writ petition stands partly allowed.

II) Condition No.1 imposed in the order dated 21.09.2022 releasing the petitioner on furlough leave passed by respondent No.3 is modified to the extent that he would be allowed to deposit the cash surety of Rs.2,000/- instead of Rs.10,000/-.

III) It is made clear that the other conditions to remain as it is.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm