

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2182 OF 2022

Pradeepkumar C. Murugan	]	
Adult, Indian Inhabitant,	]	
Age – 35 years, Occ. : Service,	]	
Prisoner No. C/18408,	]	
R/o. D/No.4/222, Ettikutai Street,	]	
Jagir Ammapalayam,	]	
Salem – 636 302, Tamil Nadu.	]	
(Presently lodged at Yerwada	]	
Central Prison, Pune)	]	... Petitioner

Versus

1.	State of Maharashtra	]	
	(through the office of the	]	
	Public Prosecutor,	]	
	High Court, Bombay)	]	
2.	Dy. Inspector General of	]	
	Prisons, Western Region,	]	
	Yerwada, Pune – 411 006.	]	
3.	Addl. Director General of	]	
	Police and Inspector General	]	
	of Prison and Correctional	]	
	Services, Maharashtra State,	]	
	Old Central Building,	]	
	2 nd Floor, Pune – 411 001.	]	
4.	Superintendent of Jail,	]	
	Yerwada Central Prison,	]	
	Yerwada, Pune – 411 006.	]	... Respondents

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Mr. Tanveer Khan for the Petitioner.
Mrs. M.H. Mhatre, APP for the State.

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CORAM : **NITIN JAMDAR AND**
 N.R. BORKAR, JJ.
DATED : **8 JULY 2022**

ORAL JUDGMENT (PER NITIN JAMDAR, J.) :

. Rule. Rule is made returnable forthwith. The learned APP for the Respondent-State waives service.

2. Heard the learned Counsel for the parties. Taken up for disposal.

3. By this Petition, the Petitioner is challenging the orders passed by Respondent No.2 dated 3 November 2021 and 22 December 2021 by Respondent No.3. The Petitioner applied for furlough leave as per the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 1959 (the Rules 1959), which was rejected.

4. By Judgment and Order dated 10 December 2019 passed by the Additional District and Sessions Judge, Pune, the Petitioner is convicted under Section 302 of the Indian Penal Code and sentenced to imprisonment for life.

5. The impugned order refers to the report from the Deputy Commissioner of Police, South Salem City, that if released, the Petitioner might abscond. Based on this report, the Respondents have opined that in light of Rule 4(20) of the Rules 1959, the Petitioner is not entitled to be released on furlough leave. The learned APP has placed before us the report, which annexes the report received from the Deputy Commissioner Police, South Salem City.

6. The report from Salem Authorities states that verification made of the local police revealed nothing adverse as per the record. The Police Station, Salem City, has stated that the sister of the Petitioner has given a written statement mentioning that when the Petitioner is released on furlough, no adverse incident will occur. After stating that there has nothing adverse against the Petitioner, the Salem authorities have stated that if released, there is a possibility that the Petitioner would abscond.

7. The learned Counsel for the Petitioner submitted that the Petitioner was convicted on the allegation that he had committed the murder of his father where he had taken the defence of unsoundness of mind, and it is not the prosecution case that there is any threat to the society.

8. Rule 4(20) of the Rules 1959 states that those who are, in the opinion of the police/prison authorities, likely to jump furlough are not eligible for furlough leave. In the report of the Deputy Commissioner of Police, South Salem City and the impugned order, only the language of this Rule has been reproduced. It is not enough that only the language of the Rule is to be reproduced, but the authority must elaborate the reason as to why it is invoked. This is necessary to ensure that the power under Rule 4 is not arbitrarily exercised. We have not been shown any reason whatsoever for how this conclusion arrived at. In fact, the Deputy Commissioner of Police, South Salem City, has otherwise found nothing adverse against the Petitioner. Considering this position, we are of the opinion that Petitioner is entitled to succeed.

9. Accordingly, Rule is made absolute in terms of prayer clause (a). The impugned orders are quashed and set aside. The Respondents are directed to release the Petitioner on furlough leave as prayed on such terms and conditions as per the Rules within a period of four weeks from today.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

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