

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2204 OF 2022**

Manisha Hanumant Nanaware wife of
convict Ganesh @ Hanumant Dhondiba
Nanaware

... Petitioner

Versus

The State of Maharashtra and another

... Respondents

.....

Mr. Harjeet Kaur B. Singh for the Petitioner.
Mrs. M.H. Mhatre, APP for the State.

.....

**CORAM : NITIN JAMDAR AND
 N.R. BORKAR, JJ.**

DATED : 26 AUGUST 2022

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the orders dated 19 January 2022 and 24 March 2022 rejecting the Petitioner's application for furlough leave.

3. The furlough leave applied for by the Petitioner was rejected on the ground that when the Petitioner was an under-trial prisoner, he had escaped from custody on 12 June 2010 and

thereafter, on 17 September 2013 he was arrested. Based on this incident, the authorities concluded that the Petitioner cannot be released on furlough leave as he may abscond. With reference to the Rule 4(4), 4(10) and 4(20) of the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 1959, the Application was rejected. The Appeal was dismissed.

4. Though it is correct that this incident has happened whereby the Petitioner had absconded from custody, the incident has taken place more than a decade ago. According to us, in this decade, there may be circumstances such as Petitioner's conduct in the prison which may lead to the conclusion that the conduct of the Petitioner of the year 2010 has lost its rigour and it may no longer be necessary to rely upon the same. Since we do not find any such application of mind to the current situation except to the incident on 2010, we are of the opinion that the application of the Petitioner for furlough leave needs to be considered. Accordingly, the impugned orders dated 19 January 2022 and 24 March 2022 are quashed and set aside. The application of the Petitioner is restored to file.

5. The authorities will take a review of the Petitioner's conduct since the year 2013 till date and thereupon take a fresh decision. Let the decision be taken within six weeks from today and

communicated to the Petitioner.

6. The Writ Petition is disposed of in above terms.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)