

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2103 OF 2022

Anil S/o Chaban Khatpe .. Petitioner
v/s.
The State of Maharashtra & Ors. .. Respondents

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Mr. Rupesh A. Jaiswal, for the Petitioner.

Mr. Y.M. Nakhwa, APP, for State.

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CORAM: NITIN JAMDAR &
N.R. BORKAR, JJ.

DATE : 1 JULY 2022.

Oral Judgment (Per Nitin Jamdar, J.) :

Heard learned Counsel for the parties. Rule. Rule made returnable forthwith. Taken up for disposal.

2. The Petitioner has filed this petition challenging the order dated 24 May 2022 and 7 March 2022 rejecting the application made by the Petitioner for grant of furlough leave under Rule 4 of Bombay Furlough and Parole Rules, 1959. The Petitioner was arrested on 5 December 2014 and was convicted by the Sessions Court, Pune in Sessions Case No.460 of 2015 under Section 302 of the Indian Penal

Code and was sentenced to undergo imprisonment for life. Having completed 7 years and 7 months, including remission period, the Petitioner applied for furlough leave.

3. The application was rejected by Respondent No.2 by order dated 7 March 2022 on two counts. First that the surety given by the Petitioner of his nephew was not satisfactory as the surety did not have any stable means of income or a standing in the society. Second reason was if the Petitioner is released, there might be disruption in the election to the Municipal Corporation, Pune.

4. As regards the reference to the election of Pune Municipal Corporation is concerned, the ground is too general and there is no reference to the circumstances under which the Petitioner was convicted so as to connect it to the election of the municipal corporation of a city as big as Pune. Even otherwise, this order was passed in March 2022 and we are considering the matter today in July 2022.

5. As regards the ground of rejection that surety was not satisfactory, the order does not state that the Petitioner was given opportunity to produce another surety. Straightaway the application for furlough is rejected. Had it been informed to the Petitioner that this was an impediment, the Petitioner could have made alternate

arrangement, which the learned Counsel for the Petitioner states that the Petitioner will do within period of two weeks.

6. As a result, the impugned orders dated 24 May 2022 and 7 March 2022 are quashed and set aside. The Respondents are directed to grant the application of the Petitioner for furlough leave on usual terms and conditions immediately when the Petitioner produces the surety to the satisfaction of the authorities.

7. Rule made absolute in above terms. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)