

Maheboob @ Firoz Chandsab Jamadar ...Petitioner
Versus
State of Maharashtra and ors. ...Respondents

Mr. Tanveer Khan for the Petitioner.
Mr. Y.M. Nakhwa , APP for the State.

CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.
DATED : 26 AUGUST 2022

P.C. :-

Heard the learned Counsel for the Petitioner.

2. The Petitioner has challenged the orders dated 12 January 2022 and 24 March 2022 rejecting the application filed by the Petitioner for furlough leave and the appeal filed from the rejection order.

3. The Petitioner is in custody since 13 February 2018. The application filed by the Petitioner for furlough leave was rejected on two grounds. First, that there is variance between the statement and the affidavit of the surety and therefore, surety furnished is not proper. Second, that the Petitioner would reside at Hotgi, which is only 2 to 3 kilometers from Solapur city, where Petitioner is likely to enter and cause law and order situation.

4. As regards the rejection of surety is concerned, there is no reference to Petitioner given intimation or an opportunity to furnish another surety. Having rejected that surety once again reference is made that surety resides close to the city of Solapur. If the apprehension is that the Petitioner is likely to enter an area to cause law and order situation, conditions would have been imposed to that effect. This aspect is not explored at all. The approach of the Authority should not be to somehow reject the applications of furlough as the object of granting furlough leave as recognized under Rules of 1959, is reformative.

5. Thus, the matter needs to be looked at again by the authorities. The impugned orders dated 12 January 2022 and 24 March 2022 are quashed and set aside. The application of the Petitioner is restored to file the original authority. The fresh decision will be taken in light of what is stated above within period of six weeks and be informed to the Petitioner.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)