

WRIT PETITION NO.4730 OF 2021

DATE : 27 APRIL 2022

Heard Ms. Patil, appointed Counsel for the Petitioner. The Petitioner-convict No.C/7717 presently lodged in Nasik Road Central Prisons is suffering his life imprisonment awarded vide Judgment and Order dated 5 May 2009 in Sessions Case No.1003 of 2006, submitted an Application sometime in year 2021 for grant of further furlough leave. The Competent Authorities, i.e. Additional IG Police and IG, Prisons by assigning reasons rejected the Application vide Order dated 22 September 2021. Perusal of the Order show that apart from reason, namely, the Petitioner would not be entitled for furlough leave in view of the provisions of The Prisons (Mumbai Furlough & Parole) Rules 1959 and the Petitioner is awarded conviction in a serious offences. The reason of inordinate belated surrender is assigned in the Order. It is stated in the Order that the Petitioner was granted parole leave in the year 2011 and the Petitioner by misusing the liberty granted to him in the nature of parole leave, belatedly surrendered to the Prison Authorities and this surrender was not voluntary, but by effecting arrest of the Petitioner. It is

also stated in the Order that the release of the Petitioner may cause disturbance in public peace. Though the other reasons, apart from belated surrender, are usual reasons, we find that the apprehension expressed by the Authorities expressed for rejection of the leave was justified. The Petitioner was expected to follow conditions imposed upon him while releasing him and liberty granted to the Petitioner was admittedly conditional liberty. The Petitioner misused the liberty and ultimately, the Authorities were to take coercive steps against the Petitioner by effecting his arrest.

2 Considering this ground, we find that no error is committed by the Authorities in rejecting the Application. Accordingly, we do not find any merit in the Petition and while rejecting the Petition, we permit the Petitioner to file a fresh application for grant of parole/furlough leave, as the case may be, is so advised and if such an application is submitted to the Prison Authorities, the Prison Authorities to consider the Application a fresh on its own merits, considering the fact that the application in the year 2011, was the first application of the Petitioner after 2011 and the Petitioner has belatedly surrendered would suffer different jail punishment for belated surrender. With these observations, the Petition is disposed of.

3 Fees of the learned Counsel appointed be paid over according to Rules.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)

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