

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.6373 OF 2021

Kamal Mayaram Kanojia
versus

Petitioner

The State of Maharashtra and others

Respondents

Mr.Shubham Gharbudave with Mr.Akshay Tilve and Snehal Sapkale,
Advocates for Petitioner.
Mrs.S.D.Shinde, APP, for State.

CORAM : A.S.GADKARI AND
PRAKASH D.NAIK, JJ.

DATE : 6th December 2022

PC :

1. By the present Petition, the Petitioner has impugned the order dated 10th May 2021 passed by Competent Authority, rejecting his application for furlough leave; and order dated 29th October 2021 passed by Appellate Authority confirming the order passed by the Competent Authority.

2. It is the fact on record that the Petitioner is in jail for last more than 15 years. That, by order dated 19th December 2009, the Petitioner was directed to be released on furlough leave on his executing PR bond in the sum of Rs.25,000/- with one surety in the sum of Rs.25,000/-, who is his relative from Maharashtra, and a surety for Rs.25,000/- from the State of Uttar Pradesh.

It is the case of Petitioner that as he could not furnish said sureties he did not avail the said furlough leave in the year 2009.

3. Be that as it may, perusal of the impugned orders would clearly indicate that both the orders are issued in mechanical manner. Even otherwise also, imposition of condition that the sureties must be from the State of Maharashtra, has been held to be an onerous condition by this Court in *Criminal Writ Petition No.2343 of 2009 with Criminal Writ Petition No.459 of 2010 (Subodh Prasad Urf Anil Chotu Jagdish Mahato Vs. The State of Maharashtra)*.

4. It is to be noted here that application filed by Petitioner dated 17th July 2019 came to be decided on 10th May 2021 without assigning reasons in that behalf.

Learned APP submitted that Petitioner has become entitled to file fresh application for furlough leave in the years 2020, 2021 and 2022.

5. In view thereof, we direct the Competent Authority to consider present petition as his application for furlough leave and decide the same in conformity with Circulars dated 10th August 2022 and 17th August 2022 issued by Additional Director General of Police and Director General of Prisons, Maharashtra State, Pune.

6. It is needless to mention that Competent Authority will adhere

to the guidelines and/or directions issued by State Government Circulars.

7. The Petition is partly allowed in the aforesaid terms.

(PRAKASH D. NAIK, J.)

(A.S.GADKARI, J.)

MST