

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 6740 OF 2021

Sadapal Hariram Yadav.

... Petitioner.

V/s.

The State of Maharashtra and others.

... Respondents.

Mr.Kuldeep Patil with Saili N. Dhuru for the Petitioners.

Mrs.S.D.Shinde, APP APP for the Respondent- State.

Mr.Yogesh Desi, DIG, Prison was present.

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

DATE : 29 July 2022.

P.C. :

Heard the learned counsel for the parties.

2. On 15 July 2022, the following order was passed:

“ The learned Counsel for the Petitioner states that the reasons given in the impugned order to reject the furlough leave is similar to the order passed earlier against which the Petitioner had filed a Writ Petition which was allowed on 23 July 2019. The learned Public Prosecutor seeks time to place on record copy of the orders dated 15 November 2018 and 1 April 2019 passed in the Petitioner’s case.

2. Stand over to 29 July 2022.”

3. The learned APP has placed on record the orders dated 15 November 2018 and 1 April 2019 passed in the Petitioner’s case. It is a common ground at the bar that the reasons given in the order

dated 15 November 2018 and the present impugned order are the same. The earlier order dated 15 November 2018 and the appellate order dated 1 April 2019 were quashed and set aside by the Division Bench on 23 July 2019 in Criminal Writ Petition No.3691/2019 wherein the grounds taken for rejection of the Petitioner's furlough leave were dealt on merits and negated. The sanctioning authority was directed to release the Petitioner on furlough leave on suitable terms and conditions. Thereafter the Petitioner was released on furlough leave, pursuant to that order.

4. Thereafter, when the Petitioner applied for the next year, again on the same grounds, the furlough leave has been rejected. The learned counsel for the Petitioner submitted that the action of the Respondents is contemptuous. The learned APP after taking instructions from the DIG, Prisons states that the impugned orders will be withdrawn and the application of the Petitioner for furlough leave will be considered afresh.

5. Considering the fact that as statement is made regarding withdrawal of the impugned order in light of the above position, we expect that the order that will be passed would be keeping in mind the order passed by this Court on 23 July 2019. The fresh order to be passed within a period of four weeks and communicated to the Petitioner.

6. Writ petition is disposed of in the above terms.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)