

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.691 OF 2021

Pradip Madhukar Nandeshwar,
Aged about 30 years,
R/o. Talawfail, Yavatmal,
At present Central Jail, Amravati.
[C-5126]

....PETITIONER

---- VERSUS ----

1. Superintendent of Prison,
Central Jail, Amravati.
2. The Superintendent Prison,
Central Jail, Nagpur.
3. Divisional Commissioner,
Amravati Division, Amravati.

.... RESPONDENTS.

Mr. S. M. Thakre, Advocate for the Petitioner.
Ms N. R. Tripathi, A.P.P. for the Respondents/State.

**CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.**

DATE : 17.03.2022.

JUDGMENT : [PER: AMIT BORKAR, J.]

1. Heard.
2. **Rule.** Rule is made returnable forthwith.
3. By this petition under Article 226 and 227 of the Constitution of India, the petitioner is challenging order dated 23.03.2021 passed by the respondent No.2 thereby rejecting the furlough leave application of the petitioner on the ground that the

surety furnished by the petitioner is not competent to take care of the petitioner.

4. The petitioner is a convict for the offences punishable under Sections 302, 201, 461, 34, 411, 451 and 380 of the Indian Penal Code and is undergoing imprisonment in Central Prison, Amravati. On the date of filing of furlough leave application, the petitioner had completed 04 years, 01 month and 04 days of imprisonment.

5. The petitioner on 06.07.2020 filed an application with respondent No.2 for his release. The respondent No.2 called for report from the Superintendent of Police, Yavatmal, who on 01.08.2020 submitted a report stating that the wife of prisoner is not competent to control the activities of the prisoner resulting into law and order situation. The respondent no.2 relying on the said report, by order dated 23.03.2021 rejected the furlough leave application. The petitioner has therefore, challenged the order dated 23.03.2021 by way of present petition.

6. This Court on 29.09.2021 issued notice to the respondents. The respondent No.2 in pursuance of the said order, filed reply stating that the police verification report is adverse as the wife of the petitioner is not competent to control the petitioner.

7. We have carefully considered the impugned order and the report submitted by the Superintendent of Police, Yavatmal dated 01.08.2020 and after considering the said report, we are of the opinion that the apprehension expressed in the Police Verification Report can be taken care of by directing the petitioner to furnish fresh surety and thereafter, the petitioner can be released on furlough.

8. Therefore, we pass following order :

- i] The impugned order dated 23.03.2021 passed by the respondent No.2 is quashed and set aside.
- ii] The respondent No.2 is directed to release the petitioner on furlough leave of 21 days subject to furnishing fresh surety to the satisfaction of Prison Authority on such terms and conditions the respondent No.2 deemed fit and proper.

9. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE