

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION (WP) NO. 698/2022

Pawan s/o Mohan Gedam (10287)
Age about 31 years, Occu. Nil
R/o Gawlipura Ramaai Nagar,
Near Dr. Ambedkar Vachnalay,
Kamptee, Tah. Kamptee,
Dist. Nagpur (MH).

(In Jail)
..... PETITIONER

// VERSUS //

1. Deputy Inspector General of
Prison (East Region), Nagpur.

2. Superintendent of Jail,
Central Prison, Nagpur

.... RESPONDENT(S)

Mr. N.T. Gwalwansh h/f. Ms. A.S. Uikey, Advocates for the petitioner
Mrs. N.R. Tripathi, APP for the respondents

CORAM : SUNIL B. SHUKRE AND
M. W. CHANDWANI, J.J.

DATED : 15/12/2022

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by
consent.

3. The learned Counsel for the petitioner has placed reliance
upon the judgment of the co-ordinate Bench of this Court in Criminal

Writ Petition No. 1535/2019, [*Satish Shankarrao Shinde Vs. The State of Maharashtra and ors.*] and in other connected writ petition, decided on 26.11.2019 wherein, it is held that although, there is a Rule i.e. Rule 4(10) of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018 (for short the “Rules of 2018”) which debars the prisoners who have escaped or attempted to escape from the Prison after getting advantage of furlough leave, the Rule can not be said to be mandatory in nature and that it would come in the way of the prisoner in availing of furlough leave, if he is otherwise liable for the same, in fit cases.

4. According to the learned APP for the respondents, this is not a fit case wherein the petitioner should be granted furlough leave.

5. We have gone through the judgment in the case of *Satish Shinde* (supra) and there is no reason for us to express any disagreement with the view taken therein. After all, the scheme of furlough leave is reformative in nature and it provides opportunity to the prisoners to reform themselves by occasionally going back to the society and refreshing themselves with positive things which happen there. Therefore, in all appropriate cases, irrespective of the bar under Rule 4(10) of the Rules of 2018, the competent Authority can favourably consider the application filed by the prisoner seeking furlough leave.

6. The question, however, involved herein is none of that and we have to consider as to whether or not, in the facts and circumstances of the present case, the petitioner deserves to be granted the benefit of furlough leave and our answer to the question is in the negative. This is a case wherein the petitioner did not surrender to the Jail Authority on due date when he was released on furlough leave earlier and was required to be arrested and brought to the Prison in the year 2015. The number of days spent by the petitioner outside the Jail, in the name of socializing and mixing with members of the society, was of 1051 days, which period of time, was almost about three years and is quite considerable and is suggestive of the inference that the petitioner is not a prisoner in whom the confidence could be reposed by the Jail Authority for his returning back to the Prison voluntarily on due date. If the petitioner once again jumps the furlough and refuses to return to Jail, the entire police machinery will be put to work and spend time and money in apprehending the petitioner. Therefore, we are of the view that at least for the present, circumstances do not permit us to trust the petitioner for his voluntary return to the Prison. In these circumstances, we are not inclined to allow the writ petition. The writ petition stands dismissed. Rule is discharged. No costs.

SANDIP
MAHADEV
GATE

(M. W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)