

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.697 OF 2023

PINTYA @ RABINDRA HIRACHAND SHINDE
VERSUS
THE DEPUTY INSPECTOR GENERAL OF PRISON WESTERN REGION PUNE
AND ANOTHER

...
Advocate for Petitioners : Mr. Chate Sharada P
APP for Respondents: Mrs. G.O. Wattamwar
...

**CORAM : MANGESH S. PATIL &
ABHAY S. WAGHWASE, JJ.**

DATE : 03.05.2023

PER COURT :

Heard both the sides finally.

2. The petitioner who is confined in an open prison is seeking to derive the benefit of Rule 6 proviso of the Maharashtra Prisons Bombay (Furlough and Parole) (Amendment) Rules, 2018 of getting furlough leave only on execution of personal recognizance instead of surety bonds as has been ordered.

3. In the matter of **Dipak Sudhakar Wakalekar Vs. State of Maharashtra and Ors.; 2011 Cri.L.J. 3263** a full bench of this Court has expressly interpreted the provision and held that a prisoner confined in the open prison is entitled to furlough leave without furnishing surety.

4. The impugned first communication dated 26.01.2023 whereby the Sub-Divisional Police Officer, Karmala has recommended for grant of leave but subject to furnishing security, and the communication dated

30.01.2023 issued to the Superintendent of Visapur, Open Prison by the D.I.G. Prison and the third communication dated 15.02.2023 again addressed to the Superintendent of Visapur, Open Prison by the DIG prison, also insist for furnishing surety as a condition for grant of furlough leave.

5. The communications insisting for imposition of condition of furnishing surety runs contrary to Rule 6 and the decision of the full bench of this Court in the matter of **Dipak Sudhakar Wakalekar** (supra).

6. The Writ petition is partly allowed.

7. The impugned communications are quashed and set aside. The respondents are directed to consider the request of the petitioner for furlough leave in accordance with the observation of this Court in the matter of **Dipak Sudhakar Wakalekar** (supra). The decision shall be taken as expeditiously as possible and in any event within three weeks.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)