

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.5254 OF 2021

Avinash Pradip Chawan @

Chintu Arvind Narayan Chawan

.. Petitioner

Vs.

The State of Maharashtra

.. Respondent

Ms. Prachi Tatake, Appointed Counsel for the Petitioner.

Ms. M.H. Mhatre, APP for the State.

**CORAM : SUNIL B. SHUKRE &
ABHAY S. WAGHWASE, JJ.**

DATE : 6th MARCH, 2023.

P.C. :

1. Heard. Rule. Rule made returnable forthwith, by consent.
2. On going through the impugned order, we find that the petitioner though otherwise eligible, has been denied furlough on some vague grounds; such as, the concerned Police Commissioner has not recommended release of the petitioner on furlough on the ground of public peace and tranquility and the petitioner having been involved in commission of offences punishable under the Maharashtra Control of Organized Crime Act, 1999 (For short "the MCOCA Act"), release of the petitioner having repercussions elsewhere in the Country and in the opinion of the police authority, the petitioner is likely to jump furlough conditions. As far as the ground of conviction for MCOCA Offences is concerned, there is no rule made under The Prisons (Bombay Furlough

and Parole) Rules, 1959, which prescribes that furlough leave cannot be granted to such offenders. Rule 4(13) can be invoked while considering the applications for grant of furlough, but it debar those prisoners who are sentenced for offences such as terrorist crimes, mutiny against state, kidnapping for ransom. It does not disqualify a prisoner who is sentenced for offences punishable under the provisions of the MCOCA Act. The other grounds taken by the authorities for denial of furlough to the petitioner are not based upon any material showing that if the petitioner is released on furlough, he is likely to disturb law and order situation or jump furlough or would create some adverse repercussions in the Country.

3. We, therefore, find that the impugned order is illegal and cannot be upheld by this Court.

4. The petition is allowed. The respondent is directed to be released the petitioner on furlough for such `mdays as he may be eligible and on such conditions as may be suitably imposed at the discretion of the Authorities, subject to the provisions of The Prisons (Bombay Furlough and Parole) Rules, 1959, within a period of one week from the date of receipt of the writ of this Court.

5. Rule is made absolute in the above terms.

[ABHAY S. WAGHWASE, J]

[SUNIL B. SHUKRE, J.]