

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1103 OF 2023

Anis s/o Yunus Nadaf
(Father of the Petitioner, Yunus Mehboob Nadaf
confined in Yerwada Central Prison as
convict no. 15549) .. Petitioner

Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Rupesh A. Jaiswal, for the Petitioner.
Smt. A. S. Pai, GP a/w. Mr. K. V. Saste, APP for the State

**CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ**

DATED : 15th JUNE, 2023

P.C.:

1. The Petitioner's father - Yunus Mehboob Nadaf came to be convicted for the offence punishable u/s 302, whose prayer for releasing on furlough came to be rejected. As such, this Petition.
2. It is the case of the Petitioner that his father was convicted in the aforesaid offence and sentenced to life imprisonment. Even after the first release on furlough, Petitioner's father has surrendered late by 1141 days, still subsequently he was released when surrendered well within time. As such, it is claimed that earlier default was condoned as Petitioner's father was absolved of said default.

3. According to Mr. Jaiswal, learned counsel for the Petitioner, during the first release and over stay of the Petitioner's father no complaints either from the original complainant in the crime nor from any of the witnesses were received.

4. As such, there are no chances of the Petitioner's father committing any further offence or creating law and order situation.

5. Learned APP on instructions submits that in case if so released the Petitioner's father is likely to create law and order issue by issuing threats to the complainant or the witnesses. Apart from above, according to him, his late surrender by 1141 days has to be considered detrimental to the interest of Petitioner's father. As such, he would urge that the prayer is liable to be rejected.

6. We have appreciated the aforesaid submissions.

7. The fact remains that the late surrender of the Petitioner's father by 1141 days way back in 2014 is followed by one more release order of the Petitioner's father. The terms of the surrender pursuant to said order were duly complied with by the Petitioner's father. Subsequent the conduct of the Petitioner's father is required to be taken into account particularly in absence of any complaints from the jail authorities or the witness or the

complainant in crime.

8. In absence of above, the aforesaid isolated incident of the late surrender by the Petitioner's father by 1141 days cannot act against the interest in perpetuity for considering and releasing the Petitioner's father on furlough.

9. In this background, the orders impugned are quashed and set aside. We permit the Petitioner's father who has already undergone almost 16 years of imprisonment to be released on furlough for a period of 28 days.

10. We deem it appropriate to direct the Petitioner's father to report to Jodbhavi Peth Police Station, Solapur every third day of his release in morning between 10.00 AM to 11.00 AM.

11. The Petition is allowed in the above terms.

(SHARMILA U. DESHMUKH, J)

(NITIN W. SAMBRE, J.)