

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 6281 OF 2021

Rajesh Babulal Kurlibance

.....Petitioner

Vs.

The State Of Maharashtra

.....Respondent

Mr. Valmiky H. Narvekar, appointed Advocate for the Petitioner.

Ms. S.D. Shinde APP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 9th JANUARY, 2023.

ORAL JUDGMENT (PER- A.S. GADKARI, J.):

Rule. Rule made returnable forthwith.

2) By consent of the learned Advocates appearing for the respective parties, taken up for final hearing.

3) Heard Mr. Narvekar, learned Advocate appointed by the High Court Legal Services Committee, Mumbai and learned APP. Perused record.

4) Petitioner is aggrieved by rejection of his Furlough Leave Application dated 18th November, 2019 by the Competent Authority by its Order dated 25th November, 2019 and the Appellate Authority dated 2nd November, 2020 confirming the said rejection.

5) Record indicates that, the Petitioner was released on furlough leave on 5th August 2014 however he did not return back to Jail Authority within stipulated period. He was reported to be absconding and therefore crime bearing No.39 of 2015 dated 27th January, 2015 under Section 224 of the Indian Penal Code was registered with Panchavati Police Station, Nashik by the Jail Authority. Petitioner thereafter was arrested by the police and brought back to the jail 293 days later.

The said fact has been considered by both the Authorities below while considering the Application filed by the Petitioner for furlough leave under Rules 4(4), 4(10), 4(11), 4(20) of the Prisons (Bombay Parole and Furlough) Rules.

6) Mr. Narvekar, learned Advocate appointed to represent the Petitioner submitted that, the ground which has weighed with both the Authorities below that, the Applicant did not report to Jail Authority within the stipulated period when he was released in the year 2014 is a stale event. He submitted that, the mother of the Petitioner was paralyzed and there was nobody to look after her and therefore the Petitioner remained with her for taking care and providing medical treatment. That, therefore the case of the Petitioner may be considered sympathetically for his release on furlough leave at this later stage.

7) After perusal of record, we find that, the aforestated fact that the Petitioner did not report to the Jail authority even though late on his

own, however had to be arrested and brought back to the jail is a sufficient ground for rejecting the Application for Petitioner to furlough leave.

We are of the considered opinion that both the Authorities below have not committed any error while rejecting the Application filed by the Petitioner dated 18th November, 2021. We find no merits in the contention of the learned Advocate for the Petitioner. Petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR
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