

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

WRIT PETITION NO.1881 OF 2022

ALONG WITH

INTERIM APPLICATION NO.3141 OF 2022

Nitin Balkisan Gaikwad

.. Petitioner-Applicant

Vs.

State of Maharashtra

.. Respondent

Mr. Yashpal Thakur, Appointed Advocate, for the Petitioner-Applicant.

Mr. A.R. Kapadnis, APP for the Respondent-State.

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

DATE : 13TH MARCH, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.

2. We find that on some fanciful apprehension that the petitioner-applicant is refused to be released on furlough. It is stated that if granted furlough, the petitioner may indulge in unlawful activity and behaviour. There is no material available on record on the basis of which a reasonable apprehension of the petitioner taking law into his own hands and making vengeance upon the complainant and the witnesses could be entertained. Petitioner is otherwise

eligible for being released on furlough. We, therefore, find that the impugned order is bad in law.

3. The petition is allowed. The impugned order is hereby quashed and set aside. The Competent Authority is directed to release the petitioner on furlough, for such days as he is entitled to and upon such conditions as may be reasonably imposed by the Competent Authority in its discretion, within a period of two weeks from the date of receipt of this order.

4. Rule is made absolute in the above terms. No costs.

5. In view of the above, Interim Application No.3141 of 2022 is disposed of.

[ABHAY S. WAGHWASE, J.]

[SUNIL B. SHUKRE, J.]