

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

CRIMINAL WRIT PETITION NO.2823 OF 2023

Lata W/o Arun Dhake
(Husband of Petitioner Arun
S/o Janardhan Dhake)

..Petitioner

Versus

The State of Maharashtra & Ors.

..Respondents

Mr. Rupesh Jaiswal, for the Petitioner.

Mr. K. V. Saste, APP for the Respondent/State.

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ.**

DATE : 17th AUGUST, 2023

PC.

1. The prayer for grant of furlough was rejected by the respondent authorities vide impugned order dated 5th December, 2022 and confirmed in appeal vide order dated 26th July, 2023.

2. Amongst other grounds for rejection were; (a) that the accused/convict was convicted in an offence punishable with life imprisonment; (b) if released, convict is likely to abscond; and (c) in case, if convict is released, there is likelihood of issuing threats to the witnesses etc.

3. Counsel for the petitioner submits that law on the issue of grant of furlough to convict is well settled as could be inferred

from the judgment of Apex Court in the matter of ***Asfaq Vs. State of Rajasthan & Ors.*** reported in **2017 CJ (SC) 958**. According to him, the husband of the petitioner i.e. convict came to be arrested on 24th June, 2011 and convicted on 2nd May, 2018 and as such, for last more than ten years, convict is suffering imprisonment. He would urge that the similarly placed co-accused in the very same crime had ordered to be released on furlough vide order dated 6th January, 2023 passed in Writ Petition No.3011 of 2021 (*Sandeep S/o Suresh Gaikwad Vs. State of Maharashtra & Ors*). As such, counsel would urge that the orders impugned are liable to be quashed and set aside.

4. While countering aforesaid submissions, learned APP would urge that there are sufficient reasons narrated in both the impugned orders to claim that the prayer for release on furlough cannot be said to be justified.

5. We have appreciated the submissions.

6. Having gone through the contents of the orders impugned, the observations made by this Court in Writ Petition No.3011 of 2021 (*Sandeep S/o Suresh Gaikwad Vs. State of Maharashtra & Ors.*) decided on 6th January, 2023, the fact remains that the issue is squarely covered by the said judgment. The petitioner in the said petition is similarly situated like the convict in the present case, who is convicted in the very same offence and was

was arrested on 24th June, 2011 and convicted on 2nd May, 2018.

7. In view of above, we deem it appropriate to allow the present petition.

8. The orders impugned dated 5th December, 2022 and 26th July, 2023 are quashed and set aside.

9. We direct that the husband of the petitioner i.e. convict be released on furlough for a period of 28 days to be computed from the date of his actual release, on furnishing a bond and a surety in the sum of Rs.50,000/- to the satisfaction of the respondent i.e. Superintendent of the prison and on such other terms and conditions the respondent authorities deem fit and proper to impose.

10. Before release of the convict, he shall furnish details to the jail authorities about his place of stay and with whom he is staying.

11. The convict shall attend the concerned police station on every alternate day during his release on furlough.

12. The petition as such stands allowed in above terms.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]