

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 57 OF 2023

Yogesh Natthuji Uikey, Aged about 32
 years, occ. NA, r/o New Gyaneshwar
 Nagar, Ajni, Tq. & Distt. Nagpur (In Jail)

... PETITIONER

VERSUS

1. Deputy Inspector General Prison
 (East Region), Nagpur.
2. Superintendent of Jail, Central
 Prison, Amravati.

... RESPONDENTS

Mrs. Ratna Singh, Advocate for the petitioner.
 Ms. N. Tripathi, A.P.P. for the respondent/State.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATED : 20.02.2023.

JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith. Heard finally by
 consent of all learned Counsel appearing for the respective parties.

2. The petitioner has been convicted for the offence
 punishable under Sections 302 and 324 of the Indian Penal Code and

he is housed in Amravati Central Prison from 18.04.2016 till date. The petitioner has undergone imprisonment for 9 years. In past, three times the petitioner was released on either furlough or parole leave. The petitioner since last one year is in Amravati Opon Prison, Amravati.

3. The petitioner has applied for 28 days furlough leave, which has been allowed vide order dated 07.12.2022. The Authority has imposed a condition of furnishing surety to the extent of a personal bond of Rs.20,000/- along with equal amount to be deposited towards cash security. Being aggrieved by the order regarding quantum of bond and security being exorbitant, the petitioner is before this Court. The State resisted the petition by contending that having regard to the nature of punishment and to secure his return on due date, the amount of bond and security has been imposed, which is proper.

4. Learned Counsel for the petitioner has produced earlier order to show that, in past, he has been released on personal bond of Rs.10,000/- with cash surety of Rs.500/-. Moreover, some other orders have been produced to show that security of lesser quantum

has been conditioned while release the convict. The learned Counsel for the petitioner has relied on the Full Bench Decision of this Court in case of ***Dipak Hari Kivkalwar vs. State of Maharashtra and anr.*** **2003 CRI.L.J. 2241**, wherein it has been ruled that :

“Prisons Act, 1894. Section 59 of Prisons (Bombay Furlough and Parole) Rules, 1959. Rules, 6, 10 – release of prisoner on parole or furlough. Procedure – prisoner confined in open prison can be released on parole or furlough by sanctioning authorities by dispensing with requirement of execution of bond by his relatives.”

5. Since as per proviso to Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959, a convict confined in open prison can be released on furlough by the Sanctioning Authority by dispensing with requirement of the bond. The existing condition appears to be unreasonable, which may amount to denial of exercising right of furlough.

6. In view of that, we hereby modify the condition of security by directing to execute a personal bond of Rs.10,000/- along with cash security to the tune of Rs.2,000/-. The rest of the

conditions would remain as it is.

7. The petition stands disposed of in above terms.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

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