

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

CRIMINAL WRIT PETITION No. 193/2023.

Manoj Singh Punjabsingh Bhada (C-5560)
Aged about 30 years, Occupation – NA
resident of Tahsil Warud,
District Amravati.

... **PETITIONER.**

VERSUS

1. Deputy Inspector General Prison,
[East Region], Nagpur.

2. Superintendent of Jail,
Central Prison, Amravati.

... **RESPONDENTS.**

Ms. R. Singh, Advocate for the Petitioner.
Ms. N. Tripathi, A.P.P. for Respondents.

CORAM : VINAY JOSHI AND
BHARAT P. DESHPANDE, JJ.

DATE : MARCH 28, 2023.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard finally by consent of the learned Counsel appearing

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for the parties. Rule. Rule is made returnable forthwith.

2. By this petition, the petitioner seeks modification in the conditions imposed while availing furlough leave, stating it to be onerous, unreasonable and excessive.

3. The petitioner is convicted for the offence punishable under Section 302 of the Indian Penal Code and is undergoing sentence. The petitioner has undergone imprisonment for 8 years. He has applied for release on furlough leave of 28 days, which was considered on merits and came to be allowed by an order dated 29.12.2022. The respondent no.1 Deputy Inspector General of Prison while granting furlough leave, called upon the petitioner to furnish two sureties to the tune of Rs.2 lakhs each, along with personal bond of Rs.5 lakhs, as well as to pay cash security of Rs.5 lakhs.

4. The learned Counsel for the petitioner submits that the surety amount is too excessive, unreasonable and it is impossible for

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the petitioner to meet the said requirement. According to the petitioner due to financial constraints, he is not in a position to deposit huge cash security. Moreover, it is submitted that the amount of surety is also excessive, therefore, it would be difficult for the petitioner to meet the conditions.

5. The submissions made by the petitioner appears to be acceptable. The order does not reflect the reasons or propriety for demanding large sum as cash security. The amount of surety should always be reasonable depending upon the financial capacity of the prisoner. Imposition of huge cash security ultimately amounts to denial of right. Though the State has stated about the gravity of the offence, however, already the authority has taken a decision to grant furlough leave. In the facts of the present case, we find that the petitioner has made out a case for modification of the impugned conditions.

6. We may note that, day in and day out we are coming across series of such orders wherein the authority is directing to

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deposit huge cash security while releasing a convict on parole or furlough leave. The said orders are nothing but, total non-application of mind. We call upon the learned A.P.P. to bring this order to the notice of respondent no.1 for acting in tune with the above observations.

7. Writ Petition is accordingly allowed and disposed of. The impugned conditions are modified to the extent of reducing the surety amount to Rs.50,000/- from Rs. 2 lakhs, likewise the personal bond amount and cash security is also reduced to the extent of Rs.20,000/- instead of Rs. 5 lakhs..

Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE

JUDGE

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