



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

CRIMINAL WRIT PETITION NO. 534/2023.

Arun s/o Gulab Gawli,
Aged 70 years, C-8535,
Presently Nagpur Central
Prison, Nagpur.

... Petitioner.

-Versus-

1. Deputy Inspector General
[Prisons], [East] Nagpur.

2. The Superintendent
Central Prison, Nagpur.

... Respondents.

.....
Shri M.N. Ali, Advocate for the Petitioner.
Ms N. Tripathi, A.P.P. for Respondents.
.....

CORAM : NITIN W. SAMBRE AND

VALMIKI SA MENEZES, JJ.

DATE : SEPTEMBER 26, 2023.

ORAL JUDGMENT : (PER NITIN W. SAMBRE, J)

Heard learned Counsel for the parties.

2. The petitioner who was convicted way back in the year 2012
has approached the jail authorities for grant of furlough, which prayer

came to be rejected vide the impugned order dated 12.07.2023. The Special Inspector General of Police, while rejecting the prayer of the petitioner has observed that the petitioner was convicted and is sentenced to suffer life imprisonment. When he was earlier released, it is claimed that an offence came to be registered against his wife Smt.Asha vide Crime No.165/2018 with Manchar Police Station, Pune Rural.

3. In this background, it is observed that considering petitioner's background, there is not only likelihood of petitioner influencing the next general elections, but, there is also likelihood of his involvement in commission of some crime.

4. The learned Counsel for the petitioner has placed on record copies of the orders wherein inspite of aforesaid background, the petitioner was granted parole/furlough. Details of such order are as under :

Sr.No.	Case No. And names of Parties	Date of order/Judgment.
1.	Criminal Writ Petition No.364/2015. Arun Gulab Gawli .vrs. The Divisional Commissioner and others.	30.04.2015.
2.	Criminal Writ Petition No.405/2015. Arun Gulab Gawli .vrs. The Divisional Commissioner and others.	29.05.2015.
3.	Criminal Writ Petition No.112/2016. Arun Gulab Gawli .vrs. Deputy	02.03.2016.

	Inspector General and others.	
4.	Criminal Writ Petition No.118/2019. Arun Gulab Gawli .vrs. Deputy Inspector General and another.	23.04.2019.
5.	Criminal Writ Petition No.89.2020. Arun Gulab Gawli .vrs. Divisional Commissioner and another.	26.02.2020.
6.	LD-VC-Criminal Writ Petition No.598/2020. Arun Gulab Gawli .vrs. Deputy Inspector General and another.	07.07.2020.
7.	L.D.-V.C.Criminal Writ Petition No.197/2020. Arun Gulab Gawli .vrs. State of Maharashtra and others.	29.05.2020.
8.	Criminal Writ Petition No.469/2021. Arun Gulab Gawli .vrs. Deputy Inspector General and another.	11.08.2021.
9.	Criminal Writ Petition No.258/2021. Arun Gulab Gawli .vrs. Divisional Commissioner and another.	08.04.2021.
10.	Criminal Writ Petition No.635/2022. Arun Gulab Gawli .vrs. Deputy Inspector General and another.	14.12.2022.
11.	Criminal Writ Petition No.782/2022. Arun Gulab Gawli .vrs. Deputy Inspector General and another.	14.11.2022.
12.	Criminal Writ Petition No.364/2015. Arun Gulab Gawli .vrs. The Divisional Commissioner and others.	30.04.2015.

5. We have perused the affidavit filed by the respondent State, wherein it is stated that the petitioner was convicted in Special MCOC Case Nos. 7/2008, 3/2009 and 529/2007. The petitioner was sentenced to suffer life imprisonment and the sentences were ordered to run

concurrently. It is also brought to our notice that in pending 5 prosecution, the petitioner is on bail.

6. It is claimed that police report was called from the Inspector General of Police which is adverse to the interest of the petitioner.

7. This Court on earlier occasions while granting the relief of release of petitioner on furlough vide order dated 08.04.2021 (Criminal Writ Petition No.258/2021), has considered the aforesaid material, including that of release of the petitioner on parole/furlough by the orders of this Court or the Authorities on earlier number of occasions.

8. The fact remains that the petitioner always surrendered after enjoying the furlough or parole leave, well within time.

9. Apart from above, according to us the issue canvassed by the petitioner is squarely covered by the orders of this Court passed in Criminal Writ Petition No.197/2020 dated 29.05.2020, so also order dated 08.04.2021 in Criminal Writ Petition No.258/2021.

10. In this background, it cannot be said that adverse police report can be considered as an embargo on the right of the petitioner to claim furlough, as but for the adverse police report, the petitioner is entitled for such relief as per Prison Rules.

11. Apart from above, this Court is required to be sensitive to the statutory right of the petitioner to claim furlough /parole leave provided requisite conditions are satisfied. In this background, we are of the view that the orders impugned dated 12.07.2023, rejecting the prayer of the petitioner for grant of furlough leave which is based on adverse police report against the petitioner cannot be sustained. As such present Criminal Writ Petition stands allowed in terms of prayer clause [ii]. We direct the respondents to release the petitioner on furlough for a period of 28 days as is provided under the Furlough Rules expeditiously.

(VALMIKI SA MENEZES, J.) (NITIN W. SAMBRE, J.)