



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

CRIMINAL WRIT PETITION NO. 672 OF 2023

Praveen @ Pradeep Ramesh Pohankar,
(C-6274), Aged about 39 years, Occ. : NA
R/o. Shivar, Tah. Daryapur, Distt. Amravati.

.... **PETITIONER**

// VERSUS //

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

.... **RESPONDENTS**

Mrs. Ratna Singh, Advocate for petitioner.
Mrs. N.R. Tripathi, Additional Public Prosecutor for respondent
Nos.1 and 2.

**CORAM : VINAY JOSHI AND
M.W. CHANDWANI, JJ.**

DATED : 19th DECEMBER, 2023

ORAL JUDGMENT : (Per Vinay Joshi, J.)

1. Heard.
2. **Admit.** Heard finally by consent of the learned counsel
appearing for the parties.
3. The petitioner has been convicted for the offence
punishable under Section 302 of the Indian Penal Code and

sentenced to suffer imprisonment of life. The petitioner is behind bars from last four years. The petitioner has applied for furlough leave, however, it was rejected on account of adverse Police Report by stating Rule 4(4) of the Maharashtra Prison Rules, 1979. The petitioner's learned Counsel would submit that till date, the petitioner has not been released on furlough leave. The very purpose behind grant of furlough leave would be frustrated if on mere speculation, the petitioner's right to avail the furlough leave has been rejected. Moreover, it is submitted that the police authorities have not made out a substantial reason for giving adverse opinion.

4. The State resisted the petition by filing reply. It is contended that the Report of Superintendent of Police was called. During enquiry, statements of the village Sarpanch and Police Patil have been recorded, who expressed that there is a likelihood of committing breach of peace, if the petitioner is released on furlough leave.

5. There is no dispute that the petitioner is in jail from last four years and for first occasion he has applied for furlough leave. We have examined the Police Report annexed with the statements. The village Sarpanch and Police Patil have stated that the tendency of petitioner is of criminal nature and the possibility of committing

offences after release, cannot be ruled out. Besides that, statements of relatives of victim have been recorded who equally stated that if the petitioner is released, there would be danger to their life.

6. The petitioner's learned Counsel would submit that on mere speculation at the whims of the local people, his right cannot be denied. To substantiate said contention, reliance is placed on the decision of this Court in ***Sanjay Kisan Kadse Vs. State of Maharashtra & Ors.***, reported in ***2004(1) Mh.L.J., 789*** and ***Criminal Writ Petition No. 807/2019, Balkrushna @ Pintya S/o Raghunath Waghe Vs. The State of Maharashtra and Ors.***, decided on ***14.06.2019*** wherein it has been held that, considering the scheme and purpose behind furlough leave, opportunity needs to be given to the petitioner to prove that he is no more danger to the society. He has become eligible to get furlough leave and he can not be denied the benefit of furlough leave merely on the ground that some witnesses are objecting to his release.

7. The purpose of grant of furlough leave is to associate the petitioner with his family and society so as to establish that he can be a good human being. The relatives of deceased would naturally tend to resist. Though, the Sarpanch and Police Patil stated that the petitioner tends to commit offences however, no past instances have

been quoted. Merely on the opinion of the Sarpanch and Police Patil, without substantial material, the prisoner's right cannot be denied.

8. In the result, the Criminal Writ Petition is allowed. The impugned order of rejection of furlough leave dated __.07.2023 is hereby quashed and set aside. The petitioner shall be released on furlough leave on imposing conditions which authority deems fit. The a.uthority shall also impose a condition that petitioner shall attend the local Police Station on every Wednesday and Sunday in between 10.00 am to 12.00 noon during the period of furlough leave.

9. The respondent authority shall pass appropriate order within a period of two weeks from the date of receipt of this judgment.

The Writ Petition stands disposed of in above terms.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)