



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

CRIMINAL WRIT PETITION NO.679 OF 2023

Kishor Maniram Dhurve, convict
No.C/697, Aged – 45 years, Occ. Nil,
Confined at Open Prison, Morshi.

... PETITIONER

VERSUS

1. State of Maharashtra, through
Deputy Inspector General of Prison,
Eastern Region, Nagpur.
2. The Superintendent, Open Prison,
Morshi

... RESPONDENTS.

Smt. Shweta Chavhan, Advocate for the petitioner.
Mrs. Tripathi, Addl.PP for the State

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.
DATED : 15.12.2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith.

2. The matter is taken up for final disposal by consent of the
learned Counsel appearing for the parties.

3. The petitioner has been convicted for the offence punishable under Sections 452, 302, 149 of the Indian Penal Code vide judgment and order dated 07.01.2016. The petitioner was transferred from Central Prison to Open Prison, Morshi on 12.02.2023. The petitioner has applied for furlough leave of 28 days. The proposal was forwarded to the Deputy Inspector General of Prisons, Eastern Region, Nagpur. The Police verification report was called from the concerned Superintendent of Police. Since the police report went adverse, respondent no.1 has declined to grant furlough leave which is under challenge.

4. The State resisted petition by filing the reply-affidavit. It is contended that though the petitioner's relative was ready to execute a bond however she was not financially capable. Secondly, the police report was adverse and thus, the petitioner is held to be not entitled for release on furlough leave.

5. Undisputedly, the petitioner has been transferred to the Open Prison Morshi. Our attention has been invited to the decision of this Court in case of *Dipak S/o Sudhakar Wakalekar vs. The State of Maharashtra dated 06.06.2011 (In Criminal Writ Petition No.848/2010 with one anr.)*, wherein relying on the Full Bench decision of this Court,

it is concluded that the convict confined in Open prison can be released on parole/furlough by dispensing with the requirement of execution of bond by the relatives. In case at hand, the petitioner's relative was ready to execute a bond, and thus, the petitioner's entitlement cannot be denied on account of financial incapacity of the relative.

6. We have gone through the police verification report of the Superintendent of Police, Balaghat. It has been stated that in case of petitioner's release, there is likelihood of breach of law and order. The report does not specify the instances or justify the reason which bent upon to give adverse report. Besides mere speculation, we did not see anything which could be construed as a conceivable threat. The petitioner pointed out that earlier on two occasions he was released on parole/furlough and has surrendered on due date.

7. In view of the above, the petitioners is well entitled for release on furlough leave. Resultantly, the petition is allowed. We hereby quash and set aside the impugned order dated 12.07.2023 passed by the respondent no.1. The concerned Authority shall pass appropriate order of releasing the petitioner on furlough by accepting the bond of relative and comply rest formalities.

8. Necessary orders be passed within four weeks from today.
Informed the concerned accordingly.

9. Rule is made absolute. No order as to costs.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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