



Judgment

925 wp 737.23

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

CRIMINAL WRIT PETITION NO. 737/2023

Vinod Shashikant Ingle (C-5289),
Aged about 29 yrs., Occ. NA,
R/o. Palso Badhe, Dist. Akola.

.... **PETITIONER**

VERSUS

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

... **RESPONDENTS**

Ms. R. Singh, Advocate for petitioners.
Mrs. N.R. Tripathi, Addl. Public Prosecutor ('APP) for respondents.

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

DATE : **18.12.2023.**

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Rule. Rule made returnable forthwith. Heard finally with
the consent of learned counsel appearing for the parties.

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2. The petitioner has applied for furlough leave of 28 days which has been rejected by the respondent No.1 vide order dated 31.08.2023. The petitioner was convicted for the offence punishable under Sections 302, 492 read with Section 34 of the Indian Penal Code. The petitioner has undergone actual imprisonment of six years and two months. Respondent No.1 has rejected petitioner's furlough leave on the ground that on earlier occasions, he surrendered late by 30 days and the related crime is still pending. The reply-affidavit is on the same line.

3. The learned counsel appearing for the petitioner submitted that earlier, the petitioner was released on furlough leave on 23.02.2022 and he has surrendered on due date on 17.02.2022. Thereafter, the petitioner was released on emergency parole due to pandemic situation. No fix date of return was given by the Jail Authorities nor he was intimated through the Jail Administration, therefore he surrendered after 30 days. Particularly, it is submitted that the petitioner was not arrested, but g, he has surrendered himself to the Jail. It appears that though the petitioner surrendered late for 30 days, however, the petitioner at his own surrendered,

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meaning thereby, he was not brought by force. The Police report specifically says that during his earlier release on furlough leave, he has not committed any act amounting to breach of law and orders. Having regard to the facts, there is no likelihood of abscondence of petitioner. Already action has been initiated against the petitioner for late surrender under Section 48-A of the Prisons Act, 1894.

4. The petitioner relied on the decision of this Court in case of **Bhimrao Sakharam Jadhav Vs. Deputy Inspector General Prison (East Region), Nagpur and another**, (Criminal Writ Petition No. 436/2023, decided on 01.08.2023) to contend that Rule 4(10) of the Prisons (Bombay Furlough and Parole) Rules 1959 is of directory nature. Since the petitioner on earlier both occasions surrendered himself at his own, we deem it appropriate to release him on furlough leave.

5. Having regard to the above facts, we find no justification in rejecting the furlough leave for the petitioner. In view of that, petition is allowed. We hereby quash and set aside the order dated 31.08.2023 passed by the respondent No.1. We direct the

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respondents to release the petitioner on furlough leave, as permissible under law on usual terms and conditions. Necessary consequential order shall be passed within two weeks from the receipt of communication of this order.

6. Petition stands disposed of in above terms.

(M. W. CHANDWANI, J.)

(VINAY JOSHI, J.)