



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

CRIMINAL WRIT PETITION NO.749 OF 2023

Pawan s/o Mohan Gedam (C/10287)
aged about 37 years, Occ. Labour, R/o
Rama Nagar, Jaistamb Squire, Kamptee,
Tah. & Dist. Nagpur.

... PETITIONER

VERSUS

1. Deputy Inspector General (Prisons),
Nagpur.
2. The Superintendent Central Prison,
Nagpur.

... RESPONDENTS.

Shri S.B. Khobragade, 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 302, 147, 148, 149 read with Section 34 of the Indian Penal Code. The petitioner has served the sentence of 9 years and 3 months. The petitioner has applied for furlough however respondent no.1 Deputy Inspector General (Prisons), Nagpur has rejected the same vide impugned order dated 04.05.2023. It has been stated that if the petitioner is released on furlough, there is likelihood of danger to his life and there would be law and order problem. Besides that it has been stated that in the year 2015, the petitioner was released on furlough, however he did not return on due date. The petitioner was brought back by way of arrest after 1051 days and thus, he is not entitled.

4. The State has also filed an affidavit-in-reply reiterating the same stand.

5. The learned Counsel for the petitioner would submit that the petitioner has earlier applied for grant of furlough leave, which was rejected. The petitioner has challenged the said order of rejection in Criminal Writ Petition No.454 of 2021. Similarly, the said petition was resisted on account of non-surrender on due date and arrest after 1051 days. Considering the said grounds, this Court has rejected the

petitioner's urge however has granted him liberty to apply fresh for furlough after lapse of 18 months.

6. In pursuance of said liberty, the petitioner has applied after 18 months to the Authority for grant of furlough leave. The instance quoted about 'non-surrender on due date' was of the year 2015. This Court has considered the said aspect earlier and expressed that after 18 months, the prayer can be renewed. Though the petitioner has defaulted in surrendering however considerable time has been lapsed. On earlier occasion though the petitioner surrendered late, no crime was registered.

7. For the same reason, the petitioner cannot be deprived from availing furlough, which has a social purpose. Having regard to the long duration from the last lapse, we deem it appropriate to exercise our judicial discretion.

8. In view of that, the petition is allowed. We hereby quash and set aside the impugned order dated 04.05.2023 passed by the respondent no.1. The petitioner shall be released on furlough leave by imposing appropriate conditions. Necessary order be passed within four weeks from today.

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

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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