



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

CRIMINAL WRIT PETITION NO. 772 OF 2023

Sumit Brijbihari Giri (C-6174)
Aged about 41 years, Occu. - NA,
R/o. RH No.1, Sukhshanti C.H.S.,
Sector 8, Plot No.8, Airoli,
Navi Mumbai – 400708.

.... **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
respondents.

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

DATED : 23.10.2023

ORAL JUDGMENT : (Per Vinay Joshi, J.)

1. Heard finally by consent of the learned counsel appearing for the parties. **Rule.** Rule made returnable forthwith.
2. By this petition, the petitioner seeks modification in the conditions imposed while availing furlough leave, stating it to be onerous, unreasonable and excessive.

3. The petitioner is convicted for the offence punishable under Section 302 and 309 of the Indian Penal Code and is undergoing sentence. The petitioner is undergoing life imprisonment. He has applied for release on furlough leave of 28 days, which was considered on merits and came to be allowed by this Court vide order dated 13.09.2023 in Criminal Writ Petition No.482/2023. The respondent no.1 – Special Police Inspector General of Prison while releasing the petitioner on furlough leave, vide order dated 08.10.2023, called upon the petitioner to deposit cash security to the tune of Rs.2,00,000/- along with personal bond of equal amount as well as surety to the tune of Rs.1,00,000/-.

4. The learned Counsel for the petitioner submits that the surety amount is too excessive, unreasonable and it is impossible for the petitioner to meet the said requirement. According to the petitioner due to financial constraints, he is not in a position to deposit huge cash security. Moreover, it is submitted that the amount of surety is also excessive, therefore, it would be difficult for the petitioner to meet the conditions.

5. The submissions made by the petitioner appears to be acceptable. The order does not reflect the reasons or propriety for

demanding large sum as cash security. The amount of surety should always be reasonable depending upon the financial capacity of the prisoner. Imposition of huge cash security ultimately amounts to denial of right. Though the State has stated about the gravity of the offence, however, already there is a decision to grant furlough leave. In the facts of the present case, we find that the petitioner has made out a case for modification of the impugned conditions.

6. We may note that, day in and day out we are coming across series of such orders wherein the authority is directing to deposit huge cash security while releasing a convict on parole or furlough leave. The said orders are nothing but, total non-application of mind. We call upon the learned A.P.P. to bring this order to the notice of respondent no.1 for acting in tune with the above observations.

7. Writ Petition is accordingly allowed and disposed of. The impugned conditions are modified to the extent of reducing the cash surety amount to the tune of Rs.25,000/- and personal bond amount to the tune of Rs.50,000/- instead of Rs.2,00,000/-, likewise the surety amount is also reduced to the extent of Rs.50,000/- instead of Rs.1,00,000/-.

Rule is made absolute in aforesaid terms with no order as to costs.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

Kirtak