



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 264 OF 2024

Jagannath Mahadeo Kamble .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Ms. Sharada P. Chate, Advocate for the Petitioner.
Ms. S. S. Joshi, A.P.P. for the Respondents/State.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 22 FEBRUARY 2024.**

FINAL ORDER :

. The petitioner who has been confined to open prison under the provisions of the Maharashtra Open Prisons Rules 1971 is aggrieved by the fact that the respondent authorities are insisting for furnishing surety under Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959 (for short 'Rules of 1959').

2. It is being pointed out that though earlier the petitioner had applied for furlough on which the impugned order dated 31.01.2024 (Exhibit – B) has been passed seeking a fresh surety, simultaneously, though it is not articulated appropriately, the petitioner seems to have submitted another application dated 29 December 2023 (page 10) seeking furlough on execution of PR bond.

3. Suffice for the purpose to observe that by virtue of proviso to Rule 6 of the Rules of 1959, as interpreted by the Full Bench of this Court in the matter of Dipak S/o Sudhakar Wakalekar Vs State of Maharashtra and others, (2011 CRI L.J. 3263), *Cri. W.P No. 848 of 2010*, in respect of prisoners who are confined to open prison, the authorities in an appropriate case have the discretion to grant the benefit and release such a prisoner on personal bond. In this view of the matter, it would be appropriate that the respondent No. 2 is called upon to pass fresh order on the petitioner's application dated 29 December 2023 (page 10), which according to the learned advocate for the petitioner has already reached the respondent No. 2 with a proposal, so that he can take a fresh decision in the light of the observations of the Full Bench of this Court in the matter of Dipak S/o Sudhakar Wakalekar Vs State of Maharashtra and others (supra).

4. The criminal writ petition is partly allowed. The impugned order is quashed and set aside. Matter is remitted back to the respondent No. 2 for passing appropriate order on the petitioner's application dated 29 December 2023, in the light of the observations of the Full Bench of this Court in the matter of Dipak S/o Sudhakar Wakalekar Vs State of Maharashtra and others (supra). The decision shall be taken as expeditiously as possible and in any case within a period of two (02) weeks from today. The criminal writ petition is disposed of.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Feb. 24