



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

CRIMINAL WRIT PETITION NO. 273 OF 2024

Abhijit Kashinath Shinde

VERSUS

The State of Maharashtra and others

Mr.R.O.Awasarmol, Advocate for petitioner
Mr.A.D.Wange, APP for respondent no.1

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.**
DATE : JULY 20, 2024

ORDER :-

The petitioner filed this petition with the following prayers :-

B) This Hon'ble High Court may be pleased to issue an appropriate writ, order or directions in the like nature, quash and set aside impugned order of rejection of furlough Application / Appeal by order dated 01.11.2023 passed by the respondent no.1 vide outward No. Judicial department / Furlough leave Appeal 79/2023 and for that purpose, issue necessary orders.

C) The respondent no.1 may kindly be directed to release the petitioner on furlough leave of 28 days as per the provisions of Prisons (Bombay Furlough and Parole) Rules, 1959.

2. The order impugned is passed by respondent no.1, rejecting the petitioner's application for furlough leave, on the ground that the petitioner would not return to the prison, if said leave is granted to him since report of the concerned police station was adverse.

3. Learned counsel for the petitioner submits that the petitioner is behind the bars since 2011 and for 13 years, he has not been granted any leave. He submits that the co-accused in the crime, in which the petitioner is behind the bars since conviction, has been granted furlough leave by the competent authority. Learned counsel submits that the mother of the petitioner is ready to stand as surety in case the petitioner is granted furlough leave.

4. The petition is opposed by learned APP. He submits that the impugned order is very clear and based on the report of the concerned police station. He submits that the reason given in the impugned order is that the petitioner would not return back to jail once he is released on furlough leave. He does not dispute that the co-accused has been granted said leave by respondent no.1. He submits that furlough leave is not a right of the petitioner.

5. We have perused the papers on record. The contention made by learned counsel for the petitioner finds support from the papers. There cannot be two views on the settled legal position that furlough leave is not a legal right of the convict. However, fact remains that the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018 ("Rules of 2018", for short) provide for such leave. Rule 1(A) of the Rules of 2018 reads thus:-

1.(A) Objectives:- Furlough and Parole leaves to inmates are progressive measures of correctional services. The objectives of releasing a prisoner on leave are:-

- (a) To enable the inmate to maintain continuity with his family life and deal with family matters,
- (b) To save him from evil effects of continuous prison life,
- (c) To enable him to maintain and develop his self-confidence,
- (d) To enable him to develop constructive hope and active interest in life.

Secondly, the co-convict from the same crime has been granted furlough leave by the concerned authority. The petitioner is behind the bars for more than 13 years without any leave.

6. The papers show that the co-convict, whose application for furlough leave was rejected by the authority, had preferred Writ Petition No.546 of 2021 before Nagpur Bench of this Court and the same was allowed by order dated 25.08.2021.

7. In view of the above, we proceed to pass the following order:-

O R D E R

(i) The petitioner is granted furlough leave for a period of 28 days from the date of his release, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one solvent surety by his mother in the like amount.

(ii) The petitioner shall attend Dharavi Police Station (Beat No.1), Mumbai, everyday, between 04.00 p.m. and 06.00 p.m., during the period of his furlough leave.

(ii) The petitioner shall surrender to jail after expiry of the said period.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

KBP