



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

CRIMINAL WRIT PETITION NO. 661 OF 2024

Gangaprasad Shriramkuber Gupta .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Rupesh A. Jaiswal, Advocate for the Petitioner.
Mrs. P. R. Bharaswadkar, A.P.P. for the Respondents/State.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 04 APRIL 2024.**

FINAL ORDER :

. The petitioner's application for regular parole has been turned down by the impugned order only by referring to Rule 19(3)(g)(ii) of the Maharashtra Prisons (Bombay Furlough and Parole Leave) (Amendment) Rules, 2022 on the ground that a period of one and half year since last return from parole or furlough leave is not over.

2. Though in a different context, a Full Bench of this Court in Kantilal Nandlal Jaiswal Versus Divisional Commissioner, Nagpur, (2019) 6 Mh.L.J. 186, has struck down a similar bar contained in a proviso, as violative of Article 14 and 21 of the Constitution of India.

3. This Court has been expressly directing that the request shall be considered ignoring the specific bar contained in similar

provision of the statutory period being not over since previous return.

4. We have been referred to a similar direction contained in the order passed in Criminal Writ Petition No.52/2024 (Shivaji Ganeshrao Jawale Vs. State of Maharashtra) dated 09.01.2024.

5. Similarly the learned A.P.P. also submits that independently all these similar clauses putting a bar for consideration of the request for leave by the prisons, are being reconsidered by the State pursuant to the observations of the Full Bench.

6. Since the petitioner has been lodged in open prison under Open Prison Rules, the respondent No. 3 shall consider if he is entitled to the discretion of being released on his personal recognition as is contemplated in the proviso to Rule 6 of the Prison Rules as interpreted by the Full Bench of this Court in the matter of Deepak Sudhakar Wakalekar Vs. State of Maharashtra reported in *2011 All MR Cri 1933*.

7. The criminal writ petition is partly allowed. The respondent No. 4 shall reconsider the prayer of the petitioner for his release on his personal bond.

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

bsb / April 24