



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1241 OF 2024

Tushar s/o. Dnyaneshwar Chavan C/9922,
Age : 25 years, Occu. : Nil,
R/o. At present Harsool Central Prison,
District Aurangabad

... Petitioner.

Versus

1. Additional Director General &
Inspector General
Prison and Correctional Services,
Maharashtra Pune.
2. The Deputy Inspector General of Prison,
Western Region, Aurangabad.
3. The Superintendent,
Aurangabad Central Prison,
Harsul, Dist. Aurangabad.

... Respondents.

...
Advocate for the Petitioner : Mrs. Sharada Pundlik Chate
APP for Respondents - State : Mr. A. D. Wange
...

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 9th AUGUST, 2024

ORAL JUDGMENT (PER SMT. VIBHA KANKANWADI, J.) :

1. Heard.
2. Rule. Rule is made returnable forthwith and matter is
heard finally with the consent of parties.
3. The present petitioner by invoking constitutional

powers of this court under Article 226 of the Constitution of India challenges the orders passed by respondent nos.1 and 2 on 22.03.2024 and 28.06.2024, thereby rejecting the applications for furlough leave.

4. Learned Advocate appearing for the petitioner submits that the ground of rejection of the furlough leave is that the surety is not ready to accept the suretyship for the petitioner and on account of that it could not be gathered that the petitioner would return to the prison after stipulated period. She submits that, this ground is unjust as the allegations those are proved that the petitioner has committed murder of his cousin, the family members are not ready to stand as surety. However, the petitioner is ready to give personal bond as well as cash surety. She relies on the decision in the case of ***Rajaram s/o. Shripati Banduke v. State of Maharashtra and Ors.*** in Criminal Writ Petition No.990 of 2016 decided by this court on 22.09.2016, wherein taking into consideration the earlier decision of this court, Bench at Nagpur and the Full Bench of the Hon'ble Gujrat High Court, the authority was directed to reconsider the request for grant of furlough leave on executing a personal bond only without surety.

5. Learned APP strongly opposes the petition on the ground that, initially by order dated 22.03.2024, respondent no.1

had rejected the application for furlough leave. However, thereafter also a report of the police was called again. Therefore, the concerned authority had exercised its powers to the maximum extent to consider the application. However, if the petitioner is not making the surety available, the application cannot be granted in view of Rule 4(4) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959.

6. The first and foremost fact to be noted is that, the aims and objects of The Prisons (Bombay Furlough and Parole) Rules, 1959, relating to parole and furlough were discussed by the Full Bench of Hon'ble Gujrat High Court in ***Bhikhabhai Devshi Vs. State of Gujarat and Ors.***, AIR 1987 Guj 136 and these objects are :

“(i) to enable the inmate to maintain continuity with his family life and deal with the family matters;

(ii) to save the inmate from the evil effects of continuous prison life;

(iii) to enable the inmate to maintain constructive hope and active interests in life.”

7. The Full Bench decision was then noted by the Division Bench of this court in the case of ***Pralhad Gajbhiye v. State of Maharashtra and another***, 1994 Mh.L.J. 1584, and it was observed

that, *“the principle object of grant of furlough is to enable the prisoner to have family association and to avoid ill-effects of continuous prison life”.*

8. The respondent no.1 while deciding parole or furlough leave has to keep this object in mind. The strict rules of interpretation and compliance of the same may not be always possible.

9. It has been stated that, the petitioner is in jail since 2019 and has not been released on furlough leave uptill now.

10. Under the said circumstance, though it may be a fact that his real brother, who has been convicted in the same offence, could get the furlough leave upon furnishing surety, it cannot be stated that the petitioner should also search for the suretyship. Except the said hurdle, there appears to be no hurdle in passing the order of furlough leave. In view of the fact now mentioned that the petitioner is ready to execute the personal bond as well as give cash surety, respondent nos.1 and 2 should consider the application afresh.

11. With these observations, we pass following order :-

ORDER

- (i) The writ petition stands allowed.
- (ii) The impugned orders dated 22.03.2024 and 28.06.2024 passed by respondent nos.1 and 2 are hereby quashed and set aside.
- (iii) Respondent no.2 to reconsider the application for furlough leave filed by the petitioner afresh. He is directed to consider the request of the petitioner for release on furlough on his executing personal bond without surety and with cash surety (which should be reasonable one) and pass the order as expeditiously as possible within a period of four weeks from today.
- (iv) Accordingly Rule is made absolute.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)