



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 CRIMINAL WRIT PETITION NO. 1873 OF 2024

SWAMIDAYAL JAIKARAN VARMA @ RAPPAL @ LAMBU C/550

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Chate Sharada Pundlik
APP for Respondents: Mr. A.M.Phule

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CORAM : SMT. VIBHA KANKANWADI &
R. W. JOSHI, JJ.

DATE : 14.11.2024.

PER COURT :

1. The present petition has been filed challenging the order of furlough leave passed on 19.04.2024 by respondent No. 2 as the petitioner has been directed to furnish two sureties of Rs. 25,000/- each.
2. Heard the learned Advocates for the parties.
3. Learned APP submits that in view of the fact that the petitioner's native place is in the Utter Pradesh and therefore,

the condition has been imposed.

4. Learned Advocate for the petitioner also points out that the application was made by the petitioner on 22.10.2024 praying for release of the petitioner for four days in view of the fact that his daughter's marriage is fixed on 16.11.2024, but that application has not yet been decided.

5. Learned APP, on instructions, submits that the report from the Superintendent, District Gaura, Utter Pradesh has not yet received and therefore, that application is yet pending.

6. Before we part, we must observe that respondent No. 2 or the jail authorities who decided the furlough and parol leave, appeared to be in some matters insensitive. They in fact decided those applications within a reasonable time considering the reason for the leave as prayed.

7. In the present case the application was filed on 02.03.2024 and then in the communication dated 14.11.2024

by the Superintendent, Viaspuar, Open Prison, the learned APP disclosed that that application itself was forwarded on 21.05.2024. So at each stage there appears to be delay. In appropriate petition we may give directions as to how such applications are required to be dealt with.

8. At this stage, we are more concerned with the reason why the petitioner's claim deserves to be considered as there is marriage of his daughter. Though there are only two days left and he may not be able to reach his village within two days yet. As per the photo copy of the invitation card, 'Vidai' is scheduled on 17.11.2024, he may attend the same. Now the question is in respect of imposition of condition, we are of the opinion that it is not necessary that in each and every matter similar conditions should be imposed, however, it lies in the discretion of the concerned authority. While passing such order many other aspects are required to be considered. The present petitioner is in Visapur open prison. Definitely he would have been in open prison taking into consideration his behaviour. That also ought to have been counted and it ought to have been seen by the authority as to whether he can pay the cash security. Now in

the impugned order the petitioner has been directed to give PR bond, two sureties each of Rs. 25,000/- and cash security of Rs. 25,000/-. Taking into consideration the fact that the petitioner appears to have been in jail since 2016 or at the most from 2019, when the judgment of conviction was pronounced, it would be hard for him to get the surety, therefore, we are of the opinion that the petition deserves to be allowed. The impugned order dated 19.09.2024 passed by respondent No. 2 to the extent of furnishing two sureties each of Rs. 25,000/- stands quashed and set aside. If the security amount is deposited by tomorrow, then respondent No. 3 should release the petitioner and the other conditions those are imposed in the impugned order are kept as it is and the petitioner should obey them.

(R.W. JOSHI)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

mahajansb/