

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 138 OF 2024

Fareed Khan Feroz Khan .. Petitioner
Versus
The State of Maharashtra and anr .. Respondents
...

Mr.M.M. Chaudhari for the petitioner.
Mr.S.V. Gavand, APP for the State.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 3rd JULY, 2024

P.C:-

1 The petitioner is aggrieved by order dated 12/12/2023, passed by the respondent no.2, thereby rejecting his Appeal and in turn refusing him the benefit of furlough leave.

The rejection is on two counts; the first being that, he face an accusations in C.R. No. 25 of 2018, registered with Vedant Nagar Police Station, that while he was taken for being produced before the Court, when he along with his associates mounted an attack on the police party accompanying them, with an intention to assist one of the co-accused to flee.

The another ground on which the benefit is refused to him is his conviction in an MCOCA case and a possibility is expressed, that his release may result into breach of law and order.

2 The counsel for the petitioner would submit that during the pendency of the petition, and to be precise on 11/06/2024, he has been acquitted of the charges under MCOCA, by the High Court, bench at

Aurangabad and he would therefore, request for reconsideration of his application for furlough leave.

3 We are persuaded by the learned counsel to consider his request in the wake of the subsequent development and upon he making the fresh application being addressed to Deputy Inspector General of Police (Prison) Yerwada, Pune, the same be considered in accordance with law within period of 4 weeks from today.

4 The counsel for the petitioner informed that at present, in the wake of registration of C.R. No. 25 of 2018, with Vedant Nagar Police Station, Aurangabad, he has been shifted to Aurangabad Central Jail as in the wake of the ongoing trial, his production is necessary.

 We have nothing to say about his transfer to Central Prison, at Aurangabad on transit remand however, since his entitlement is to be determined by the Inspector General of Police (Prison) Yerwada, Pune through the Superintendent of Prison, Aurangabad, the competent authority shall take up his application for consideration forthwith, without being influenced by the earlier order passed by the appellate authority in considering his entitlement for furlough.

 We must clarify that merely on account of the fact that, he is in Aurangabad jail shall be no ground to refuse consideration of his application by the Deputy Inspector General of Police (Prison) Yerwada, Pune, despite the fact that the application is received by the Superintendent of Prison, Aurangabad, where he is presently housed.

 With this direction, Writ Petition is disposed off.

(MANJUSHA DESHPANDE,J)

(BHARATI DANGRE, J.)