

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO.3540 OF 2023
WITH
INTERIM APPLICATION NO. 448 OF 2024
IN
WRIT PETITION NO. 3540 OF 2023**

Ashwin Bansi Sapkale .. Petitioner
Versus
The State of Maharashtra .. Respondent

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Mr. Jugal Kanani, for the petitioner.

Ms M. M. Deshmukh, APP, for the State.

Ms Suvarna Chorge, Jailor Group- II, Nashik Jail, is present.

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**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 5th JULY, 2024**

P.C:-

1. Being aggrieved by the order dated 21.12.2023, rejecting the request made for being released on furlough leave in the wake of his past conduct, the petitioner has approached this Court.

The learned counsel, Mr. Jugal Kanani representing the petitioner, on being appointed through the Legal Aid, do not dispute the fact that the petitioner surrendered belatedly, that is after 9 years, 6 months and 13 days, i.e. 3253 days.

This is the specific ground, why the prison authorities did not deem it appropriate to consider his application for furlough leave.

2. The learned APP has placed before us the chart pointing out the details of the convict, and it clearly record that the petitioner remained outside the prison unauthorizedly for 9 years 7 months and 3 days and has in fact being levied with a punishment for late surrender, by removing his name from remission registrar. It is not only on this instance that he has surrendered late, but it is also in 2007 and 2009, he had reported back belatedly.

Though, we have time and again adopted a view that Rule 4(10) of the Prisons (Bombay Furlough and Parole) Rules, 1959, which impose embargo upon the prisoners who have at any time escaped or attempted to escape from lawful custody or have defaulted in any way in surrendering themselves at the time of released on parole or furlough, shall not be eligible for furlough and we have construed it as an unwarranted and unreasonable restriction imposed upon a prisoner's right to avail furlough, the objective being to maintain continuity with the outside world. However, here is a prisoner who is a rank defaulter and he has surrendered after 3453 days when he was required to be arrested and confined to prison.

3. We have also perused the communication dated 11.07.2023 addressed to the Registrar, which has been treated

as a Writ Petition and the reasons stated therein completely failed to convince us for his unauthorized absence. Hence we are not at all inclined to interfere with the impugned order and by maintaining the same the Writ Petition is dismissed.

In view of the disposal of the Writ Petition, the Interim Application also stand disposed off.

We would like to place on record our appreciation for Advocate Mr. Jugal Kanani, who has effectively put up the case for the petitioner before us. We expect the Legal Service Authority to make payment of remuneration of Mr. Jugal Kanani within a period of six weeks from today.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)