

rajshree

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

WRIT PETITION NO.3055 OF 2023

ALONGWITH

INTERIM APPLICATION NO.1349 OF 2024

IN

WRIT PETITION NO.3055 OF 2023

Saleem Beg Umar Beg] .. Applicant

vs.

State of Maharashtra] .. Respondent

Mr.Kartik Garg for the Applicant.

Mr.S.V. Gavand, APP for the State.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ**

DATE : 2nd December, 2024.

P.C.

1. The present Writ Petition is filed by the Petitioner Saleem Beg Umar Beg, who was convicted by the Sessions Court in Sessions Case No.204/1993 for the offence punishable under Section 302 of the IPC and was sentenced to suffer life imprisonment.

An Appeal preferred against the said decision was dismissed thus confirming the finding of conviction and imposition of sentence upon him.

The Petition was filed being aggrieved by order dated

13/12/2022 and also order dated 09/02/2023 rejecting his request for parole on the ground that when he was earlier released on parole on 06/06/2011, he had surrendered by delay of 783 days and similarly in the year 2005 and 2008 also, he surrendered by delay of 533 and 592 days respectively, and therefore in terms of Rule 4(10) and Rule 4(20) of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018, his Application came to be rejected.

2. In response to the said Petition, an Affidavit was filed by the Superintendent Nashik Road Central Prison, informing that the Petitioner had already approached Aurangabad Bench by filing a Writ Petition and the Petition was disposed off.

Reliance was placed upon Rule 4(10) of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018, which clearly specified that if a prisoner abscond, while being released on parole or furlough, he shall not be eligible to be released on parole or furlough leave.

3. Mr.Kartik Garg, the learned counsel representing the Petitioner in the Interim Application would place reliance upon the decision in case of Dhananjay s/o Laxman Thorat vs. State of Maharashtra & Ors. in Criminal WP No.960/2019, delivered at Aurangabad Bench on

09/07/2019, where the Court has clearly observed that when the accused has undergone more than 15 years and 3 months and considering his remission period, since he has undergone 22 years of imprisonment, his previous conduct prior to April, 2010 cannot be a ground for rejection of furlough.

We have followed the said decision in various cases before us when we have categorically held that on account of lapse of time, prisoner cannot be denied of the right to furlough or parole, merely because in the past, he has surrendered belatedly.

4. Though in the present Writ Petition, the convict had addressed a communication to the Registrar on 20/11/2023 seeking his release on parole, in the wake of illness of his mother and by categorically stating that 10 years and 5 months have lapsed when he had last reported to the prison, we are of the view that the Application preferred by him should be considered on its merits by ignoring the fact that, long back in the past he had failed to report to the prison authority on the due date.

5. Since the Petition is filed in the year 2022, assailing the orders of 2022 and 2023, we are really not sure whether the contingency for he being released on parole really exist. If it does so, then the Petitioner

is at liberty to prefer a fresh Application for parole, to be accompanied with the necessary proof for securing it, to the Competent Authority, within a period of two weeks from today.

Upon such Application being preferred, the Competent Authority shall take decision within a period of 2 weeks thereafter and communicate to the Petitioner the decision on his application.

This is, however, subject to the clarification that merely on the ground that he had surrendered belatedly on the previous occasions and despite the fact that period of more than 10 years has lapsed, his application shall not be rejected by the Authorities on the said ground.

6. Let this order be communicated to the Applicant, through the Superintendent Nashik Road Central Prison, so that he would be in a position to prefer application at the earlier.

In the wake of above, WP No.3055/2023 as well as IA No.1349/2024 stand disposed off.

7. We would like to place on record our appreciation for the assistance rendered by the learned counsel Mr.Kartik Garg, appointed through Legal Services Authority. The Maharashtra Legal Services Committee shall make payment of his remuneration within a period of six weeks from today.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)