



Judgment

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION No. 32/2024.

Laxminarayan s/o Shravanji Kinkar,
Aged Adult, Occupation – Nil,
resident of Plot No.27, Mahakali
Nagar, Manewada Road, Nagpur
Presently at Prisoner No.C-705(152),
Open Jail Morshi.

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PETITIONER.

VERSUS

1.The State of Maharashtra,
through Superintendent of Prison,
Open Jail Morshi, District Amravati.

2.The State of Maharashtra,
through Dy. Inspector General of
Police [Prisons], East Zone,
Nagpur.

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RESPONDENTS.

Mr. S. Singha, Advocate [Appointed] for the Petitioner.
Mr. A. Badar, A.P.P. for Respondents.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.

DATE : JANUARY 18, 2024.

Rgd.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

Rule. Rule is made returnable forthwith and by consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. The petitioner has been convicted in Sessions Case No.59/2014 for the offence punishable under Section 302 of the Indian Penal Code and is serving the sentence of life imprisonment. The petitioner has applied for grant of furlough leave. Respondent no.2 has granted furlough leave by imposing certain conditions, which caused the petitioner to invoke the inherent jurisdiction of this Court.

3. The petitioner is aggrieved by only one condition that “the convict shall furnish surety to the tune of Rs.10,000/- of his relative.” The learned Counsel appearing for the petitioner has invited our attention to Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959 which carves out an exception for condition of

Rgd.

surety only when the prisoner has been confined in open prison. The learned Counsel for the petitioner has tendered a communication addressed by the Superintendent of Morshi Open Prison regarding petitioner's urge for seeking modification. In view of said communication, it can be reasonably inferred that the petitioner is housed in open prison. In the circumstances, we find no difficulty in modifying the condition of surety for release on furlough. The petition needs to be allowed, hence, the following order.

ORDER

- (i) Criminal Writ Petition is allowed and disposed of.
- (ii) The impugned condition namely – to furnish one surety [relative] to the tune of Rs.10000/-, is hereby quashed and set aside. We make it clear that on compliance of rest of the conditions, the order dated 22.06.2023, shall be implemented.
- (iii) Rule is made absolute in the aforesaid terms.
- (iv) Fees of the appointed Counsel be paid as per Rules.

JUDGE

JUDGE

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