



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

CRIMINAL WRIT PETITION NO. 414 OF 2024

Sheikh Imran @ Golu Sheikh Mahmood
(C-5868)

Aged about 26 years, Occ. NA

R/o Ashok Nagar, Yavatmal

...Petitioner

// VERSUS //

1. Special Police Inspector General Prison (East Region), Nagpur
2. Superintendent of Jail, Central Prison, Amravati

... Respondents

Ms. Ratna Singh, Advocate for the petitioner.
Shri H.D.Futane, APP for the respondents/State.

**CORAM : SMT. VIBHA KANKANWADI, AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATED : 19th JULY, 2024.

ORAL JUDGMENT : [PER : SMT. VIBHA KANKANWADI, J.]

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. The present writ petition has been filed for quashing the impugned order dated 22nd March, 2024 passed by the respondent no.1 rejecting furlough leave for a period of 28 days to the petitioner.

3. Heard Ms. Ratna Singh, learned Advocate for the petitioner and Shri H.D.Futane, learned Additional Public Prosecutor for the respondents/ State.

4. It is to be noted that the present petitioner is undergoing life imprisonment for the offence punishable under Sections 302, 34, 120-B, 341 and 506 of the Indian Penal Code imposed by the learned Sessions Judge, Yavatmal on 20th August, 2020. He had applied for furlough leave on 16th December, 2023 to meet his family. However, by the impugned order dated 22nd March, 2024, his application came to be rejected on the ground that there is possibility of commission of crime by him after release on furlough leave. It was on the basis of police inquiry and the negative report.

5. Learned advocate for the petitioner submits that the reason for rejection of the leave is wrong. When earlier the petitioner was released on leave, he had reported on time in the jail. This fact has not been considered in the inquiry report. The inquiry report submitted by the Assistant Commissioner of Police, Gadge Nagar Division, Amravati City to the respondent no.2 states that the reason for the leave is correct but then it is apprehended that if the petitioner is granted leave, he may commit the offence.

6. Though the reply has not been filed by the learned Additional Public Prosecutor, by taking help of provision in Rule 4(4) of the Bombay Furlough and Parole Rules, 2018 and Clause 4(a) of the Government Resolution dated 16th April, 2018, submitted that the petitioner is not entitled to get the furlough leave, in view of the adverse police report.

7. At the outset, we do not find the reason that has been given is sufficient to deny the furlough leave. The aim and object of the Furlough and Parole leave has accepted in many cases by this Court, is to enable the inmate to maintain continuity with his family life and deal with the family matters. It is also aimed at to enable the inmate to maintain constructive hope and active interest in the life.

8. In the case of *Pralhad Gajbhiye Vs. State of Maharashtra, reported in 1994 Mh.L.J, 1584*, it has been observed that the principle object of grant of furlough leave is to enable the prisoner, who have family association and to avoid ill-effects of continuous prison's life.

9. The said communication dated 10th February, 2024 filed by the Assistant Commissioner of Police, Gadge Nagar Division, Amravati would show that the reasons given by the petitioner for the leave is correct. Unnecessarily question has been raised that the person who has offered to stand surety is not competent and will not be able to control the petitioner. Both the authorities appear to have forgotten that on the earlier occasion the same authorities had granted him leave and he reported to the jail within time. The said conduct on the part of the petitioner ought to have been then considered. It is also observed that the Assistant Police Commissioner, Gadge Nagar Division, Amravati that the place where the petitioner's family is staying on rent is surrounded by goondas. He is not supposed to brand anybody as goondas or having background of criminal activity unless it is supported by some evidence.

10. For the aforesaid reasons, we are of the opinion that the rejection appears to be without application of mind and therefore, it

deserves to be quashed and set aside. We, therefore, proceed to pass the following order.

- i. The writ petition stands allowed.
- ii. The impugned order dated 22nd March, 2024 passed by the respondent no.1 is hereby quashed and set aside.
- iii. The respondent no.1 is directed to grant furlough leave of 28 days as per the Rules to the petitioner and such order be passed as Furlough by taking appropriate surety and upon imposing conditions within a period of one week from today.

[MRS. VRUSHALI V. JOSHI, J.] [SMT. VIBHA KANKANWADI, J.]