



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

CRIMINAL WRIT PETITION (WP) NO.485 OF 2024

- 1) James @ Tambi s/o Bablu Gabrel
Aged about 29 years, Occ. Labour R/o
Saint Martin, Martin Nagar, Jaripatka,
Nagpur.

.... Petitioner(s)

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- 1) Deputy Inspector General (Prisons),
Nagpur
- 2) The Superintendent Central Prison,
Nagpur

.... Respondent(s)

Mr. A.K. Sorde, Advocate for the Petitioner/s

Mr. N.R. Tripathi, AGP for the Respondent Nos.1 and 2/State

CORAM : VINAY JOSHI & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 03.10.2024

ORAL JUDGMENT : (PER : VINAY JOSHI, J)

1. Heard.

2. This petition is under Article 226 of the Constitution of India challenging the order dated 15.04.2024 passed by the respondent No.1-Deputy Inspector General (Prisons), Nagpur, whereby rejected to release the petitioner on furlough leave.

3. The rejection is on the ground that in past, when the petitioner was released on furlough leave, a crime has been registered against him for possessing arms. Moreover, on earlier occasion when the petitioner was released on Covid parole, he did not surrender on the due date and he was required to brought back by arrest.

4. The learned counsel for the petitioner relies on the decision of this Court in the case of ***Sachin Vs. Deputy Inspector General (Prison) and another*** (Criminal Writ Petition No.364 of 2024), decided on 21.06.2024, wherein this Court has expressed that as regards to late surrender, as per the Rules, the Prison Authority is empowered to impose punishment. Moreover, this Court held that the registration of crime on earlier release, cannot be taken as a sole ground, since the trial is pending.

5. The petitioner was earlier released on furlough, however, crime was registered under Section 4 read with 25 of the Arms Act and under Section 135 of the Maharashtra Police Act against the petitioner during said period.

6. Having regard to the nature of accusation and pendency of the said crime, after lapse of two years, the said registration of crime would not confine us. As regards to late surrender is concerned, there is no material that the petitioner was informed about the date of surrender, since he was released on Covid parole. Moreover, as per the Rules, the punishment would be imposed for late surrender.

7. In view of above, we deem it appropriate to hold that the petitioner deserves for grant of furlough leave, which is for the purpose of affording an opportunity to meet family and to associate with the society. Hence we pass the following order:

(i) The petition is **allowed**.

(ii) The impugned order dated 15.04.2024, is hereby quashed and set aside.

(iii) The respondent No.1 shall release the petitioner on furlough leave for a period as permissible under law, by imposing suitable conditions, as it deems fit.

(iv) The necessary orders shall be passed within a period of four weeks from the date of receipt of this order.

The writ petition stands **disposed of**.

[MRS. VRUSHALI V. JOSHI, J]

[SMT. VIBHA KANKANWADI, J]