



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

CRIMINAL WRIT PETITION NO. 593 OF 2023

Dinesh Kashinath Kasare
Convict No.C-655,
Aged about 38 years,
Presently at Morshi Open Prison,
District – Amravati

}

... Petitioner

Versus

1. Deputy Inspector General
(Prisons) (East), Nagpur.

2. The Superintendent of Jail,
Morshi Open Prison,
District – Amravati.

}

... Respondents

Mr. J.S. Chilotra, Advocate (appointed) for petitioner.
Ms. Nandita Tripathi, APP for respondent Nos.1 & 2.

CORAM : VINAY JOSHI, AND
SMT. VRUSHALI V. JOSHI, JJ.
DATE : 30.01.2024

ORAL JUDGMENT: (PER: Vinay Joshi,J)

Rule. Rule made returnable forthwith. Heard finally
by consent of both the learned counsel for the parties.

(2) The petitioner has been convicted for the offence
punishable under Section 302 of the Indian Penal Code and

undergoing imprisonment for life. The petitioner has undergone near about eight years of imprisonment and presently, he has been housed in an open prison. The petitioner has first time applied for grant of furlough leave, however, it has been rejected vide impugned Communication dated 16.02.2023. Respondent No.1 – Deputy Inspector of General Prisons (East), Nagpur, has rejected furlough leave solely on the ground that the proposed surety is not ready to accept the surety for the petitioner's release.

(3) The State resisted this application by filing a reply affidavit. It is contended that the surety was not ready and despite opportunity, the petitioner has not furnished the name of another surety. Besides that, no other substantial ground has been canvassed to reject furlough leave.

(4) Learned counsel for the petitioner has attracted our attention to the proviso to Rule 6 of the (Bombay Furlough and Parole) Rules, 1959, which invests discretion with the sanctioning authority to dispense with the requirement of surety, in case, the prisoner is confined in open prison. There is no dispute that the petitioner is confined in the open prison which is evident from the impugned order

itself. We have taken a note that during last eight years, the petitioner has not been released either on parole or furlough leave.

(5) In view of the above, to accomplish the purpose of grant of furlough leave, we are inclined to exempt the condition of surety as permissible under the Rules. The petition is allowed. Impugned Communicated dated 16.02.2023 is hereby quash and set aside. Respondent No.1-authority shall pass an appropriate order of release of the petitioner on furlough leave by imposing suitable conditions as it deems fit except the condition of surety.

(6) Necessary order shall be passed within four weeks from the date of communication.

(7) The petition stands disposed of in above terms.

(8) Fees of appointed learned counsel be paid as per rules.

[VRUSHALI V. JOSHI, J.]

[VINAY JOSHI, J.]

Prity