



Judgment

917 wp 723.23

1

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

CRIMINAL WRIT PETITION NO. 723/2023

Sunita Deepak Awale,
Aged 37 years, R/o. Plot No.155,
Bharatwada Road, in front of
Tirupati Kirana Store, Pardi,
Nagpur (C/10013, Nagpur Central
Prison, Nagpur.)

... **PETITIONER**

VERSUS

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

... **RESPONDENTS**

Mr/Mrs. A.Y. Sharma, Advocate h/f Ms. S. Khobragade, Advocate for
petitioner.
Mrs. N. Tripathi, APP for respondent Nos. 1 & 2.

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

DATE : 19.03.2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by
consent of learned counsel appearing for the parties.

2

3. The petitioner lady has been convicted for the offence punishable under the provisions of Maharashtra Control of Organized Crime Act and sentenced to suffer rigorous imprisonment for 10 years. The petitioner applied for regular furlough leave, however vide impugned order dated 21.07.2023, respondent No.1 Special Inspector General of Prison (East Region), Nagpur has rejected furlough leave on account of Rule 4(4) and 4(10) of the Prion (Bombay Furlough and Parole) Rules, 1959. Precisely, the rejection was on the ground that on earlier released, the petitioner has not turned up for 131 days and thus, was brought back by arrest.

4. The learned counsel for petitioner would submit that the petitioner has furnished plausible explanation for delay in return which needs consideration. Moreover, it is submitted that by the time, the period of three years has been lapsed and thus, on the same ground, the petitioner's urge for furlough leave could not have been rejected. In support of said contention, the petitioner relied on the decision of this Court in case of **Satish Shankarrao Shinde Vs. The State of Maharashtra & ors., 2019 ALL MR (Cri) 5247**, wherein it is ruled that merely on the ground that the petitioner did not turn up

3

on time, furlough cannot be refused since the individual facts are to be considered.

5. Undisputedly, by the time, the petitioner has undergone imprisonment for near about seven years. In past, the petitioner was released on parole leave on 17.09.2020, however she did not return on due date, hence she was arrested and brought back in the month of March 2021. Having regard to the purpose behind grant of furlough leave, due regard is to be given to all the circumstances. Now, the period of three years has been lapsed, hence on said sole ground, the petitioner's urge for furlough leave could not have been denied. Besides that, no other ground has been canvassed to deny the furlough leave.

6. In view of above, application is allowed. We hereby quash and set aside the impugned order dated 21.07.2023. The authority shall pass appropriate order for release of the petitioner on furlough leave as permissible under the Rules, within a period of four weeks from the date of this order by imposing suitable conditions as authority may deem fit.

7. Petition stands disposed of in above terms.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)