



Judgment

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

CRIMINAL WRIT PETITION NO. 900/2023

Deepak @ Golu Anand Tayade (C-4863)
aged about 30 yrs., Occ. NA,
R/o. Hanuman Nagar, Ward No.7,
Lodhipura, Ganpati Naka, Burhanpur,
M.P.

... **PETITIONER**

VERSUS

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

... **RESPONDENTS**

Ms. Ratna Singh, Advocate for petitioner
Mrs. N. Tripathi, APP for respondent Nos. 1 & 2.

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

DATE : **28.03.2024.**

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

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

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3. The petitioner has been convicted for the offence punishable under Sections 302, 307, 353, 201 of the Indian Penal Code. The petitioner has undergone the imprisonment for the period of 10 years and 2 months till date of applying for furlough leave. The petitioner's urge for grant of furlough leave has been rejected by the respondent No.1 Special Police Inspector General Prison vide impugned order dated 10.08.2023

4. Furlough leave was rejected on two counts namely adverse police report and the petitioner did not surrender on due date on earlier occasion while he was released on Covid Parole. The reply affidavit bears a chart showing the petitioner's conduct on his release on earlier occasions.

5. It reveals that in past on 30.04.2018, 07.07.2020 and 07.07.2020, the petitioner was released on parole/furlough leave but and surrendered on due date. While petitioner was released on Covid parole leave on 28.12.2020, he was brought back by arrest after 93 days. It is argued that when the petitioner was released on Covid parole leave, no fixed date of return was given and thus, there

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is no intention to abscond. It emerges that when the petitioner was released on regular parole/furlough leave, he has surrendered on due dates. Thus, according to us, the lapses on the part of the petitioner for not knowing the date of return cannot be construed as a ground for rejection.

6. We have gone through the adverse police report submitted by the Superintendent of Police. It reveals that the Police have only speculated the possibility of abscondence. Besides that, the Police have expressed their opinion that release on furlough may not be proper in the interest of justice. Virtually, we could not see any substantial reason assigned by the Police for submitting adverse police report.

7. In view of above, the impugned order dated 10.08.2023 is not sustainable in the eyes of law, hence it stands set aside. We hold that the petitioner is entitled for release on regular furlough leave as permissible under the Rules. The respondents authorities shall pass consequential order within four weeks from today by imposing suitable conditions as the authority may deem fit.

8. Petition stands disposed of in above terms.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)