



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

CRIMINAL WRIT PETITION NO. 86 OF 2024

Narayan Raisingh Chavhan -Vs-The State of Maharashtra and anr..

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.A.M.Haque, Advocate for the Petitioner.
Ms.Nandita Tripathi, A.P.P for respondent-State.

**CORAM : VIBHA KANKANWADI &
VRUSHALI V.JOSHI, JJ**

DATE : 19th July,2024.

1. The present writ petition has been filed for quashing the impugned order dated 12.07.2023 passed by the respondent No.1 to reject the furlough leave of 28 days to the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned APP. Perused the reply of the respondent No.2.

3. It is to be noted that the present petitioner is undergoing life sentence for the offence punishable under Sections 302, 450 and 324 r/w 34 of the Indian Penal Code awarded in Sessions Trial No.88 of 2009 by the learned Sessions Judge on 14.12.2011. According to the petitioner, he would undergo more than 14 years of imprisonment now. He was granted leave on three occasions earlier and he has reported back to the jail

within time. However, now, his application for furlough leave has been rejected on the ground of apprehension that he would commit some offence and it is based on the adverse report of the local police. It is also stated that in the past, when he was on leave, when it was checked, he was not found at the given address.

4. In the reply filed by Inspector General of Prisons, Eastern Region, Nagpur almost same facts are reiterated and the possibility is expressed that he would commit some serious offence and therefore, by taking help of provision in Rule 4(4) of the Bombay Furlough and Parole Rules, 2018, clause 4-A of Government Resolution dated 16.04.2018 it is stated that the petitioner is not entitled to be released on furlough leave.

5. 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, as accepted in many cases by this Court is to enable to 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.

6. In the case of **Pralhad Gajbhiye .V. State of Maharashtra** reported in (1994) Mh.L.J.1584, it has been observed that the principal object of grant of furlough is to enable the prisoner, who have family association and to avoid ill effects of continuous prison life.

7. If we consider the object then, when it is stated that the surety is ready to take all the efforts and liability in respect of good behaviour of the inmate then this aspect ought to have been considered along with the reply. The communication by Superintendent of Police, Yavatmal to the Deputy Inspector General of Prison, dated 25.06.2023 has been annexed, wherein, there is a specific statement that the surety who is the wife of the petitioner has specifically stated that she takes the guarantee about good behaviour of the husband and the people in the village have no objection, if leave is granted. However, adverse report was given on the point that the witnesses, who were examined in the matter against the petitioner reside in the same village and therefore, possibility of any offence cannot be ruled out. When this opinion is given, it appears that the Superintendent of Police, Yavatmal had not considered that on the three earlier occasions, the petitioner was released on leave and there was no offence reported against him. His behaviour that he returned to the jail on the given date appears to have not been considered by respondent No.1. Therefore, the rejection appears to be without application of mind and therefore, it deserves to be quashed and set aside. We, therefor, proceed to pass the following order.

8. The writ petition stands allowed.

9. The impugned order dated 12.07.2023 passed by the respondent No.1 is hereby quashed and set aside.

The respondent No.1 to grant furlough leave of 28 days or as per the Rules to the petitioner and such order be passed as per law by taking appropriate surety and imposing conditions within a period of one week from today.

10. Writ petition stands disposed of.

(MRS. VRUSHALI V.JOSHI,J.) (SMT.VIBHA KANKANWADI,J.)