



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

902 CRIMINAL WRIT PETITION NO. 482 OF 2025

Chandu @ Chandrakant Govind Vaiti
Through his brother Gangaram Govind Vaiti,
Age : 55 Years, Occu. : Service,
R/o. Plot No.356, Javharnagar,
Road No.19, Goregaon(West),
Mumbai-62.

.... Petitioner

VERSUS

1. The State of Maharashtra.
2. The Superintendent of Jail,
Visapur Open Prison, Ahilyanagar.
3. The Superintendent of Jail,
Harsul Prison,
Chatrapati Sambhajinagar.

.... Respondents

....
Advocate for the Petitioner : Mr. Rajesh H. Mewara
APP for Respondents-State : Mr. A.M. Phule
....

CORAM SMT. VIBHA KANKANWADI &
: SANJAY A. DESHMUKH, JJ.

Dated : 08th May 2025

PER COURT :-

1. The present petition has been filed for following reliefs :

“a) *The order dated 18.03.2025, passed by respondent No.2, may kindly be quashed and set aside, vide outward No.913/2025.*

b) The order dated 31.12.2024, passed by respondent No.2, may kindly be restored, vide outward No.4011/2024.”

2. Heard learned Advocate appearing for the petitioner and learned APP for the respondents.

3. We had directed learned APP on 05.05.2025 to get the instructions. Accordingly, he is producing the written instructions those have received to him by the jail authorities. That communication is taken on record by marking Exhibit-X.

4. The facts which are emerging from the record are that the petitioner came to be convicted by City Civil and Sessions Court, Mumbai in Sessions Case No.956 of 1988, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, on 08.10.1993. The petitioner was then transferred to Nasik Road Central Prison on 11.05.2023 and it appears that thereafter, he has been transferred to Visapur Open Prison, Tq. Shrigonda, Dist. Ahilyanagar.

5. The present petitioner had filed an application for furlough leave and it was forwarded for a grant to Special I.G.

(Prison), Nasik Division, Nasik. In the meantime, because of the ill health, the petitioner was temporarily transferred to Yerwada Prison on 17.10.2024, for the treatment of cancer. After getting initial treatment at Sassoon Hospital, Pune, he was transferred to Government Cancer Hospital, Sambhajinagar on 06.02.2025. While undergoing the said treatment, he suffered paralytic attack on 14.03.2025. Presently also, he is undergoing the treatment at Government Hospital Ghati, Sambhajinagar.

6. In the meantime, it appears that respondent No.2 granted the furlough leave by order dated 31.12.2024, which was then communicated by letter dated 03.01.2025. In view of the subsequent developments, it appears that the petitioner made an application to cancel the said order as he would be undergoing the treatment that is being given to him. That application was given by the petitioner on 14.01.2025. However, his request came to be rejected on 18.03.2025 as there is no provision of stay to the order granting furlough leave in the rules those have been framed by the Government on 02.12.2024.

7. Now, in the written instructions, the facts are admitted, however, the Government's stand appears to be that the convict can utilize the furlough leave granted within two months from the date of

grant. Now, in the present case, as there is no fresh proposal given by the petitioner for furlough leave, his application cannot be considered.

8. We are mainly on the point that when the fact regarding the health of the petitioner is accepted by the Government, then rigid application of rules is not expected. The petitioner is suffering from cancer and while undergoing treatment, he has suffered paralytic attack. He could not have utilized the furlough leave though granted. Under such circumstance, his application could have been considered. Of course, he was asking for stay which might not be possible, but the cancellation of the order dated 31.12.2024 with liberty to the petitioner to consume those days for furlough leave in future could have been the procedure that could have been adopted.

9. Taking this as a exceptional case and taking into consideration the illness of the petitioner and the treatment that is going on, we partly allow the petition.

10. The order dated 18.03.2025, passed by respondent No.2, stands quashed and set-aside.

11. We quash and set-aside the order dated 31.12.2024 granting the furlough leave to the petitioner and direct the respondents to add those twenty eight (28) days in the account of the petitioner.

12. We grant liberty to the petitioner to make a fresh application for furlough leave which should be considered by the concerned authority on its merits.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd