



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1450 OF 2025

Mansub Ismail Mulani C/5145

Age: 50 years, Occ: Nil, R/o. Serving

Sentence Paithan open prison,

Dist. Chh. Sambhajinagar

... PETITIONER

VERSUS

1) The State of Maharashtra,
Through its Secretary, Home Department,
Mantralaya, Mumbai – 400 032

2) The Superintendent,
Paithan Prison,
District Chh. Sambhajinagar

3) The Deputy Inspector of General of
Prisons Western Region, Aurangabad
Division Chh. Sambhajinagar

... RESPONDENTS

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Ms Sharda P. Chate, Advocate for the Petitioner

Mr. P. S. Patil, APP for Respondent Nos. 1 to 3

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CORAM : SANDIPKUMAR C. MORE AND
Y. G. KHOBRAGADE, JJ.

RESERVED ON : 04.11.2025

PRONOUNCED ON : 13.11.2025

JUDGMENT (PER: Y. G. KHOBRAGADE, J.) :-

1. Rule. Rule made returnable forthwith and heard
finally with the consent of the parties.

2. By the present petition, the petitioner takes exception to the orders dated 19.07.2025 and 19.09.2025, passed by respondent Nos. 2 and 3, respectively, thereby refused to enlarge the accused on parole unless he submits surety as per the amended Rule 24(1) of the Prisons (Bombay Furlough and Parole) Rules, 1959.

3. Learned counsel appearing for the petitioner canvassed in vehemence that the petitioner was convicted for the offence punishable under Section 302 of the Indian Penal Code by the learned Additional Sessions Judge, Malshiras, District Solapur in Sessions Case No.83 of 2004.

4. The petitioner was arrested on 02.05.2012 and he has been sentenced to suffer life imprisonment. The petitioner was transferred to open prison at respondent No.2 Paithan Prison. The petitioner has completed more than 12 years of his actual imprisonment. The behavior of the petitioner being jail inmate is satisfactory, therefore, the petitioner is entitled for furlough leave. Therefore, on 12.09.2024, the proposal for furlough leave was submitted with Respondent No.2 and the copy of same was forwarded

to the office of Sub Divisional Police Officer, Barshi, District Solapur, calling the police report. The police report from the office of Sub-Divisional Police Officer was received on 24.01.2025. The Respondent No.2 passed an order on 21-03-2025 and granted furlough leave to the petitioner on condition that the petitioner should submit one surety. Initially, the petitioner gave name of his surety holder, however, during the police inquiry, the said surety holder was refused to stand as surety, therefore, the petitioner was called upon to give name of another person as surety, but no one was ready and willing to accept surety for the petitioner. Therefore, the petitioner submitted an application with respondent No.2 on 14.07.2025 and prayed for release him on his personal bond as well as accepting minimum cash security. However, on 19-07-2025, the respondent No.2 passed an order and rejected the said application. Being aggrieved by the said order, the petitioner filed appeal before respondent No.3. On 19.09.2025, the respondent No.3 passed the impugned order and confirmed the order dated 19.07.2025 passed by respondent No.2.

5. The learned counsel appearing for the petitioner canvassed that the petitioner submitted an application for furlough

leave on 16.04.2018. Proviso 10 of Rule 6 of Bombay Furlough and Parole Rules, 1959 provides that the convict who confined in an open prison, is entitled to release on parole / furlough leave on executing his personal bond or furnishing cash security and it is not required to furnish the suerty for grant of 28 days furlough leave, however, the Respondent no. 2 & 3 relied on amended Rule 24 and wrongly rejected the application, hence, prayed for quash and set aside both the orders.

6. The learned counsel appearing for the convict petitioner further canvassed that for grant of 28 days furlough leave, on execution of personal bond is permissible as no one is ready and willing to stood as a surety for the petitioner. As per the provisions of Rule 8(5), 10, 11 and 12 '*mutatis mutandis*' shall apply in this case. In support of this submission, the learned counsel appearing for the petitioner relied on the case of ***Dipak Sudhakar Wakalekar Vs. State of Maharashtra and others, 2011 Cri. L.J. 3263***, wherein the Full Bench of this Court has held that, the convict confined in an open prison, can be released on parole or furlough on execution of his personal bond.

7. It further relied on the case of ***Natia Jira Vs. State of Gujarat, 1984 Cri. L. J. 936***, wherein it has been held that where a prisoner is not able to give surety or relatives, the authorities have the discretion to accept personal bond submitted by the convict and release him on furlough leave. It further relied on the judgment dated 09.08.2024, passed by this Court in ***Criminal Writ Petition No.1241 of 2024 (Tushar Dnyaneshwar Chavan C/9922 Vs. The State of Maharashtra and others)***, the petitioner was held entitled to get furlough leave upon furnishing personal bond as well as by giving cash security.

8. Per contra the learned APP strongly opposed the application on the ground that as per the amended Rule 24(1) of the Maharashtra Prisons (Furlough And Parole) Rules, 2024, came into force with effect from 02.12.2024, unless the prisoner furnish surety, he cannot be granted furlough leave. Therefore, the impugned orders passed by the competent authorities, are just and proper and no propriety lies in favour of the prisoner. It is further canvassed that if the petitioner is not making surety available, his application for furlough, cannot be granted in view of Rule 4(4) of the Maharashtra

Prisons (Mumbai Furlough and Parole) Rules, 1959. Hence, prayed for dismissal of the writ petition.

9. Having regard to the rival submissions canvassed on behalf of both the sides, we have gone through the petition paper book. Indeed, on 16.04.2010, the learned Additional Sessions Judge, Malshiras, District Solapur, passed the judgment and order in Criminal Sessions Case No.83 of 2004 arising out of Crime No.06 of 2004 registered with Velapur Police Station and convicted the petitioner accused for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code and sentenced to suffer life imprisonment. It is a matter of record that the petitioner undergone imprisonment of 12 years 5 months and 22 days as on 19.09.2025. No doubt, on 12.09.2024, the petitioner submitted an application and prayed for grant of furlough leave. Thereafter, on 24.02.2025, the Sub Divisional Police Officer, Barshi, submitted it's report and disclosing that one Mr. Ali Husain Sattar Shaikh, whose name was given by the petitioner as his surety holder but said surety holder not having proper and compleat documentation. Thereafter, the petitioner submitted a request letter on 14.07.2025 with the respondent authorities and prayed for releasing him on furlough

leave by accepting P. R. bond and cash security. However, the said application came to be turned down on 19.07.2025 and confirmed the order on 19.09.2025 by respondent No.2.

10. Needless to say that as per Rule 6 of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, the relatives of the prisoner is required to furnish surety bond in Form 'A' for such amount as may be fixed by the sanctioning authority and who is willing to receive the prisoner while on furlough. Rule 10 of the 1959 Rules, provides that the sanctioning authority shall grant furlough to the prisoner subject to his executing personal bond or giving cash security contemplated in Form 'C' and also subject to the surety executing the bond in Form 'A' appended to these rules, if so required.

11. In the case of ***Bhikhabai Devshi Vs. State of Gujarat and 1 Ors., AIR 1987 Guj 136***, the Full Bench of Gujarat High Court discussed the aims and object of the Prison (Furlough And Parole) Rules, 1959, and observed as under:-

- (i) to enable the inmate to maintain continuity with his family life and deal with the family matters;
- (ii) to save the inmate from the evil effects of continuous prison life;

(iii) to enable the inmate to maintain constructive hope and active interests in life.

12. The Full Bench of this Court in the case of ***Pralhad Gajbhiye Vs. State of Maharashtra and another, 1994, Mh. L. J. 1584***, held that the principle object of grant of furlough is to enable the prisoner to have family association and to avoid ill-effects of continuous prison life.

13. In the case in hand, on 19.07.2025, the respondent No.2 passed the order and denied furlough leave facility to the petitioner on the account that no one is ready and willing to stand his surety for the petitioner. On 19.09.2025, respondent No.3 passed the impugned order and denied furlough leave facility to the petitioner on the ground that no one is ready and willing to stand as surety to the petitioner as per amended Rule 24(1) of the Maharashtra Prison (Furlough And Parole) Rules, 2024, which came into force with effect from 02.12.2024. Since, the application for furlough leave submitted by the petitioner on 12.09.2024 and on the day of application for furlough amended provision of Rule 24(1) were not in existence and said provisions came into force with effect from 02.12.2024, therefore, the said Rules cannot be made applicable to the petitioner

with retrospective effect. Therefore, considering the law laid down in the case of ***Dipak Sudhakar Wakalekar*** and in the case of ***Pralhad Gajbhiye*** (supra), the petitioner is entitled for 28 days furlough leave on furnishing his personal bond in Form 'B' and cash security bond of Rs.5,000/- in Form 'C' appended in the Prisons (Bombay Furlough And Parole) Rules, 1959. With these observations, the impugned order dated 19.07.2025 passed by respondent No.2 and order dated 19.09.2025 passed by respondent No.3, need to be quashed and set aside. Accordingly, we proceed to pass the following order:-

ORDER

- (i) The Writ Petition is allowed.
- (ii) The impugned orders dated 19.07.2025 and 19.09.2025 passed by respondent Nos. 2 and 3 respectively, are hereby quashed and set aside.
- (iii) Respondent no.2 is hereby directed to release the petitioner/inmate on furlough leave for 28 days on furnishing his personal bond of Rs. 15,000/- in Form 'B' and cash security bond of Rs.5,000/- in Form 'C' appended to the Prisons (Bombay Furlough And Parole) Rules, 1959.
- (iv) Accordingly, Rule is made absolute in above terms.
- (v) No order as to cost.

[Y. G. KHOBRADE, J.]

[SANDIPKUMAR C. MORE, J.]