



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.528 OF 2025

Qamar Jahan W/o Zakir Ahmed Khan,
Age-50 years, Occu:housewife,
R/o-Flat NO.301, A Wing, 3rd Floor,
Meer Apartment, Tahir Ansari Marg,
Grant Road, Mumbai.

...PETITIONER

VERSUS

- 1) Inspector General of Prisons,
Pune,
- 2) Deputy Inspector General of Prisons,
Chhatrapati Sambhajinagar,
- 3) Superintendent,
Open Prison, Paithan,
District-Chhatrapati Sambhajinagar.

...RESPONDENTS

...
Mr. Rupesh A. Jaiswal Advocate for Petitioner.
Mr. G.A. Kulkarni, A.P.P. for Respondents - State.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 29th APRIL, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed by the wife of the convict
for granting exemption from surrender before the prison

authorities on 24th April 2025 and for extension of parole leave of her husband Zakir Ahmed Shakir Ahmed Khan by 30 days.

2. Heard learned Advocate Mr. Jaiswal for the petitioner and learned APP Mr. Kulkarni for the State.

3. Learned Advocate for the petitioner submits that the husband of the petitioner is undergoing life imprisonment in an offence punishable under Section 302 and other Sections of the Indian Penal Code. He was convicted by the Additional Sessions Judge, Sewri, Mumbai. He was released on furlough leave for 28 days from 26th March 2025 till 24th April 2025. He was supposed to surrender by evening of 24th April 2025. However, he suffered heart attack on 11th April 2025 and was required to be hospitalized. Husband of the petitioner has been advised to undergo bypass surgery. The father of the convict has also been convicted in the same sessions case and has been sentenced to undergo imprisonment for life. The entire family stays at Mumbai and for his survival the convict has to undergo the bypass surgery (i.e. early CABG Surgery). The petitioner has submitted an application to the Superintendent of Jail for extension of leave along with medical reports from Balaji Hospital, Byculla, Mumbai,

however, no decision has been taken. Thereafter the convict has also got the opinion from the Department of Cardiology, BYL Nair Charitable Hospital, Mumbai Central, Mumbai and there is some advise. Though the convict was admitted for the operation with Saifee Hospital, Mumbai, due to sudden rise in his WBC Count his operation could not be performed and therefore, he will have to undergo the operation after the control of the WBC Count. The petitioner and the convict have filed affidavits stating that now the convict has been admitted to Kikabhai Hospital, Sion East, Mumbai and he would be likely to be operated on 30th April 2025. They have given undertaking that if the furlough leave is granted to him, he will not seek any further extension of his furlough leave.

4. The learned APP strongly objects and submits that already the date of surrender has gone and the convict has not surrendered before the jail authorities. In view of the rules which have come in existence since 2024, in respect of parole and furlough leave, the concerned authority has no power to extend the furlough leave. He also submitted that if the extension is granted on humanitarian ground, it should not be then taken as precedent.

5. At the outset it is to be noted that by our order dated 23rd April 2025, we had directed the learned APP to give direction to the concerned police station having jurisdiction in which the said hospital is situated, to cross check the admission of the convict and also take statement of the doctor under whom the convict was taking treatment and details about the operation to be performed. This was only byway of precaution. The report was given stating that the convict was discharged on 26th April 2025, therefore, the concerned police officer went to the house of the convict and found that the convict was not in a position to speak. The concerned doctor who is supposed to perform the operation, was not available but his assistant was contacted. The discharge summary and other documents were given by the petitioner to the said police official also. If we consider those reports/discharge summary, then it is clearly stated that the surgery is necessary. It is also stated by Saiffee Hospital that the convict had high WBC Count and therefore, he has been in wards with iv antibiotics, iv fluids and other supportive measures. That means, there is substance what the petitioner is saying.

6. The convict has to undergo bypass surgery and therefore,

on humanitarian ground, we extend the furlough leave to the convict Jakir Ahmad Shakir Ahmad Khan (C-4919) lodged at Paithan Open Prison, as an exceptional case. The undertaking is also given that the convict would not claim further extension of furlough leave.

7. It will not be out of place to mention here that the learned APP submits that there are certain furlough leaves to the account of the convict and if he surrenders and makes fresh application, then that will be considered positively. We are of the view that the State cannot be inhuman in such cases. The convict has to survive and for that purpose it is stated that he has to undergo the bypass surgery. Now, the conditions cannot be put to the convict to surrender first and then apply. Therefore, we are specifically stating that this has been treated as an exceptional case by us, taking humanitarian ground in view of the circumstance and therefore, the Writ Petition stands allowed.

8. The convict – Zakir Ahmed Shakir Ahmed Khan is exempted from surrendering himself to the prison authorities on 24th April 2025. We allow the application for extending furlough leave of the convict Zakir Ahmed Shakir Ahmed Khan for 28 days

starting from 24th April 2025. Respondent Nos.2 and 3 to issue fresh order in respect of grant of extension of furlough leave to the convict, within a period of one week, in the line of earlier directions.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/MAY25