



Judgment

950-CR.WP-479-2025

1

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

CRIMINAL WRIT PETITION NO. 479/2025

...

Bilal Sayyed Mustafa Ali,
Convict No. C/9584, Aged 55 years,
Occ. Nil, Confined at Central Prison,
Nagpur.

... PETITIONER

-- V E R S U S --

- 1] The Special Inspector General of Police (Prison),
Eastern Region, Nagpur.
- 2] The State of Maharashtra,
Through Deputy Inspector General of Police,
Eastern Region, Nagpur.

... RESPONDENTS

Ms. Shewta Wankhede Chavhan, Advocate for the Petitioner.
Ms. S.N. Thakur, A.P.P. for the Respondents.

CORAM : ANIL L. PANSARE AND
M. M. NERLIKAR, JJ

DATE : JULY 29, 2025.

ORAL JUDGMENT (Per M.M. NERLIKAR, J.) :

Heard. Rule. Rule is made returnable forthwith, and by consent of learned Counsel for the parties, the matter is taken up for final disposal.

2. The present Petition is being filed challenging the order dated 30/05/2025, wherein, the application of the petitioner for grant of furlough leave came to be rejected by the respondent No.1 on the ground that when the petitioner was released on Parole during Covid-19 pandemic, he did not report back and was required to be arrested. Thus, he was late by 788 days. The further reason which is assigned in the order is that the petitioner is not doing the assigned work which is required and the said request for grant of furlough leave was rejected by taking aid of Clause 4[2][d][ii] of the Notification dated 02/12/2024.

3. We have heard the learned Counsel for the petitioner and the learned A.P.P. for respondents. The petitioner is undergoing

3

imprisonment for life in Central Prison, Nagpur. He has completed 11 years, 04 months and 10 days of imprisonment. The petitioner applied for furlough leave by an application dated 15/02/2025, pursuant to which a police Report was called, which was favourable. However, by order dated 30/05/2025, the Respondent No.1 rejected the application on the above mentioned grounds.

4. The learned Counsel for the petitioner submits that the impugned order is a classic example of non-application of mind. Though, the petitioner was released on several occasions after 2022, the Authority has failed to consider the said fact. Further, she has submitted that the petitioner undertakes to do the assigned work in jail, as per the direction of the concerned Jail Authority.

5. On the other hand, the learned A.P.P. submitted that the respondent No.1 is justified in passing the order by rejecting the application of the petitioner for the reason that when the petitioner was released on Parole during Covid-19 pandemic, he over stayed by 788 days. Not only that, as per the Notification dated 02/12/2024, it

4

was specifically stated that the petitioner is not doing the work as was assigned to him in Jail, and therefore, the Superintendent has sent adverse report against him. Therefore, considering the facts and circumstances, the petitioner is not entitled for furlough leave in view of Clause 4 (2)(d)(ii) of the notification dated 02/12/2024.

6. We have considered the rival submissions of the parties. It is not in dispute that the petitioner is undergoing sentence of life imprisonment. It is also not in dispute that the petitioner has already undergone 11 years, 4 months and 10 days of imprisonment. It can be gathered from the record that after 2022, when the petitioner was brought to Jail, the petitioner was released on several occasions either by the Jail Authority or by this Court. It is necessary to mention that he was granted furlough leave for 28 days by this Court by order dated 12/09/2023 passed in Writ Petition No. 351/2023. Further, he was also released on regular parole for 60 days in the year 2024 by the Jail Authority. He surrendered on the given due date to Central Jail, Nagpur on both occasions. Further, the petitioner was granted furlough leave by the Jail Authority on certain conditions, however,

5

the petitioner approached this Court by filing Criminal Writ Petition No. 741/2024, wherein, the condition of submitting tax receipt was dispensed with by this Court by directing to accept the surety of the petitioner's wife. Therefore, considering the above facts and circumstances, the respondent No.1 has failed to consider the case of the petitioner in its true perspective and also failed to consider the orders passed by this Court from time to time. Not only that, since 2022, the petitioner was released 3 – 4 times, either on Parole or Furlough, therefore, merely observing that the petitioner has at early point of time not surrendered on due date is erroneous, and therefore, the ground on which the application was rejected is not sustainable. So far as second ground is concerned, the petitioner undertakes to do the work as assigned by the Jail Authority. Considering the above facts and circumstances, we are inclined to allow this Petition.

7. The learned counsel for the petitioner submits that the petitioner be released on furnishing surety of his wife without insisting for tax receipt, as is observed in Criminal Writ Petition No.

6

741/2024 in the order dated 27/09/2024. Hence, we pass the following order :-

ORDER

- (i) Criminal Writ Petition is allowed.
- (ii) We hereby quash and set aside the order dated 30/05/2025 passed by the Respondent No.1 - The Special Inspector General of Police (Prison), Nagpur, and direct the Jail Authority to release the petitioner by accepting surety of his wife and without insisting for tax receipt;
- (iii) The Jail Authority are at liberty to impose any other conditions as they deems fit;
- (iv) Rule is made absolute in above terms.

[M. M. NERLIKAR, J]

[ANIL L. PANSARE, J]