



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.122 OF 2026

Durgaprasad Omprakash Mishra
Versus
The State of Maharashtra & Ors.

...

Ms. Sharda P. Chate for the petitioner.
Mr. Govind A. Kulkarni, AGP for Respondent Nos.1 & 2.

...

CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.

DATED : 9TH MARCH 2026

PER COURT (Per Abasaheb D. Shinde):-

1. Heard.
2. By this Writ Petition the petitioner is seeking following reliefs :

“a) That this Criminal Writ Petition may be allowed

b) That, the Hon'ble High Court may be pleased to issue Writ, mandamus or any appropriate Order, or directions to the Respondent No. 2 to extend the furlough leave period granted vide order dated 25.09.2025 in the interest of Justice.

c) Direct the Respondent No.2 to release the petitioner on furlough leave, ignoring the lapse caused due to administrative delay. In the interest of Justice.

d) Initiate appropriate action or inquiry against respondent no.3 for failure to perform statutory duties in time.

e) Such further and other orders are passed as this Hon'ble court may deem just, fit and proper under the circumstances of the case.

f) The Petitioner is in jail affidavit may kindly be dispensed with.”

3. Learned Counsel for the petitioner submits that after finding

that the petitioner is eligible for furlough leave of 28 days, the petitioner made an application in that regard. The said application was forwarded to Respondent No.2-the Superintendent of Harsool Open Prison, District Aurangabad who allowed the said application on 25.09.2025. She would further submit that in order to ascertain that the petitioner executes surety bond, the Respondent No.2 on 06.10.2025 intimated Respondent No.3 herein to do the needful with regard to the execution of surety bond. She would further submit that due to inaction on the part of Respondent no.3 in completing the formality of execution of surety bond, the period of furlough has expired and therefore she would urge that the period of furlough leave granted on 25.09.2025 be extended.

4. Per contra, the learned APP would submit that considering the application filed by the petitioner, the Respondent no.2 has passed an order on 25.09.2025 thereby granting furlough leave to the petitioner for a period of 28 days. He further submits that it is due to inaction on the part of Respondent no.3 in completing the process of surety bond, despite Respondent no.2 having passed the order the petitioner has been deprived of furlough leave. Since the petitioner could not furnish surety bond the period of furlough leave of 28 days has been

expired and the said period of furlough leave having once expired cannot be extended. He therefore, urge that the petitioner is not entitled for extension of furlough leave.

5. While issuing notice to the Respondents, in addition to the usual mode of service the petitioner was permitted to serve Respondent No.3 through all permissible modes of service. Accordingly, learned Counsel for the petitioner has filed Service Affidavit stating that Respondent No.3 has been duly served. We find that despite service of notice Respondent No.3 did not appear.

6. Having heard the learned Counsel for the petitioner and learned APP for the Respondent Nos. 1 and 2, we find that by an order dated 25.09.2025 the furlough leave was granted to the petitioner for 28 days, however, due to non-execution of surety bond, the petitioner could not avail the said furlough leave. We also find that the said period cannot be extended since Rule 10 of the Maharashtra Prison (Furlough and Payrole) Rules, 2024 (for short "the Rules, 2024") does not permit for extension of furlough beyond sanctioned period in any circumstances. We find that for no fault on the part of the petitioner he has been deprived from being released on furlough leave due to inaction on the part of Respondent no.3 in

doing needful regarding execution of surety bond.

7. Though we are not inclined to consider the prayer for extension of furlough leave at this juncture, we, however, grant liberty to the petitioner to make fresh application in that regard and Respondent Nos.1 and 2 may consider the said application on its own merit.

8. Rule 24 (1) of the Rules, 2024 make it mandatory to provide surety in order to avail furlough, which reads thus:

“Rule 24. Submission of surety, personal bond and cash security.

- (1) The Sanctioning Authority may grant furlough or parole to the prisoner subject to his executing a Personal Bond in Form E and Cash Security in Form F to observe all or any of the conditions mentioned therein and also subject to such other conditions, if any, as may be specified by the Sanctioning Authority. No prisoner shall be granted furlough or parole unless he can provide a suitable surety willing to receive him. The surety chosen must be willing to enter into a Surety Bond as in Form C appended to these rules for such amount as may be fixed by the Sanctioning Authority.*
- (2) The surety may be furnished either to the Tahsildar of the area where the surety resides in or to the Superintendent of any Prison in Maharashtra nearest to the residence of the surety or to the Superintendent of the Prison where the prisoner is confined.*
- (3) The Tahsildar or the Superintendent of Prisons, shall be bound to forward the documents related to the surety to the Superintendent of the Prison where the prisoner is confined.”*

It is evident from Sub-rule (2) and (3) Rule 24 that, it is responsibility of the concerned Tahsildar to forward the document related to surety to the Superintendent of the Prison and while doing so he must act in diligent manner without any arbitrariness and delay. In the present it could be seen

that, Respondent No. 3 has acted in most casual and irresponsible manner due to which furlough leave granted to the present petitioner have expired.

9. Before parting, we find that this Court is coming across several cases where though the inmates are released on furlough leave, it is only due to inaction on the part of the concerned authorities like Respondent No.3 for want of execution of surety bond the period of furlough leave are getting expired and the inmates are not able to avail the said furlough leaves. We therefore find that, this is a fit case where we should mulct the Respondent No.3 with cost.

10. We, thus dispose off this Writ Petition with liberty to the petitioner as prayed for. We, however, direct Respondent No.3- the Tehsildar, Sadar Bhojubir to deposit cost of Rs.10,000/- with this Court within a period of four (4) weeks from today for his inaction which has resulted into depriving the petitioner from availing the furlough leave. Upon deposit of the above cost the same be utilized for the Creche/Day Care Centre, Advocates' Association of Bombay High Court, Bench at Aurangabad. If the Respondent No.3 fails to deposit the cost as directed the District Collector, Varanasi, Uttar Pradesh shall recover the said cost from the Respondent No.3 towards arrears of land revenue. We also direct by way of reprimand that

Respondent No.3 in future shall act diligently in respect of matter pertaining to execution of surety bond.

11. Writ petition thus stand disposed of in above terms.

[ABASAHEB D. SHINDE, J.]

[SANDIPKUMAR C. MORE, J.]