

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3148 OF 2025

Mohd. Ali Jaan Mohd. Shaikh
Residing at A/75, Forth Floor,
Rehamani Building, Mumbra
Devi Road, Opposite Mumbra
Railway Station, Mumbra Taluka
and District Thane (at present
undergoing the sentence imposed
upon him at Nashik Road Central
Prison)

... Petitioner

V/s.

1. The State of Maharashtra
(through the Secretary, Home
Department, Mantralaya,
Mumbai – 400 032)
2. Deputy Inspector General of Prisons,
Central Zone
3. The Special Inspector General of Police,
Prison and Correctional Services,
Maharashtra State, Pune – 1
Central Zone, Maharashtra State
4. The Superintendent,
Nashik Road Central Prison, Nashik

... Respondents

Mr. Nitin H. Sejpal a/w Mrs. Pooja N. Sejpal, Mr. Siddharth Gharat Advocate
for Petitioner.

Ms. Suvarna J. Chorge, Jailor Gr II, Nashik Jail.

Mr. Vinod Chate, APP for the State.

CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.

RESERVED ON : 4th DECEMBER, 2025.
PRONOUNCED ON : 11th FEBRUARY, 2026.

JUDGMENT [Per: RANJITSINHA RAJA BHONSALE, J] :-

- 1) Rule. Rule made returnable forthwith. Heard with the consent of the parties.
- 2) By the present Petition filed under Article 226 of the Constitution of India, the Petitioner seeks to challenge the Order dated 21st January, 2024 passed by the Respondent no. 2 i.e. Deputy Director General of Prisons, Central Zone as well as Order dated 23rd April, 2024 passed by the Respondent no. 3 i.e. Special Inspector General of Police, Prison and Correctional Service Maharashtra, whereby, the Petitioners Application/request for release on furlough leave for a period of 45 days has been rejected.
- 3) Pursuant to the Order dated 17th July, 2025 the Respondent No. 4 i.e. Superintendent of Nashik Jail has filed his Affidavit in reply dated 30th July, 2025 and opposed the Petition.
- 4) Heard. Shri Nitin H. Sejpal learned Advocate for the Petitioner and Mr. Vinod Chate learned A.P.P for the State.
- 5) The learned Special Judge, CBI at Mumbai by its Judgment and Order dated 25th April, 2022 passed in Sessions Case No. 187 of 2011 has convicted the Petitioner for the offence punishable under Section 302 read

with Section 34 and 120-B of the Indian Penal Code and sentenced him to suffer a rigorous imprisonment for life and to pay a fine of Rs. 8,000/- and in default to undergo further rigorous imprisonment for a period of six months. The Petitioner has also been convicted for an offence punishable under Section 307, read with Section 34 and 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for eight years and pay a fine of Rs.5,000/- and in default to undergo further rigorous imprisonment for a period of four months. The Petitioner has also been convicted for an offence under Section 326 read with Section 34 and 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for five years, pay a fine of Rs. 5,000/- and in default to further rigorous imprisonment for four months and convicted for an offence under Section 37 of the Indian Arms Act and sentenced to suffer rigorous imprisonment for four years and pay fine of Rs. 5,000/- in default to undergo further rigorous imprisonment for four months. All the sentences are directed to run concurrently. Being aggrieved the Petitioner filed a Criminal Appeal No. 559 of 2022 before this Court which has been admitted.

6) The Petitioner was arrested on 10th October, 2010 in the said crime and has since been in custody. The Petitioner has already undergone 14 years of the sentence imposed. The Petitioner has maintained good conduct inside the prison. The Petitioner has availed parole leave as per the Prison Rules. That, the Petitioner applied to Respondent no.4 for the grant of

furlough leave. That, the Assistant Commissioner of Police was directed to call for an enquiry report from the Senior Inspector, Mumbra Police Station. By an enquiry report dated 19th December, 2023 the Mumbra Police Station has reported that no offence was registered against the Petitioner. The Senior Inspector of the Mumbra Police Station, however opined that if the Petitioner is granted furlough leave the possibility of a law and order situation arising cannot be ruled out. Based on the said report the Deputy Inspector General of Prisons, Central Zone, by Order dated 21st January, 2024 recommended that the application for furlough leave be rejected.

6.1) That, the Petitioner being aggrieved by the said rejection filed an Appeal before the Special Inspector General of Police (Prisons and Correctional Services) i.e. Respondent No. 3. The said Appeal was rejected by Order dated 23rd April, 2024.

7) Mr. Nitin Sejpal, learned Advocate for the Petitioner submits that, the Petitioner has maintained good conduct in the prison. That, the Petitioner has strong roots in the society and his family/sister resides within the jurisdiction of Mumbra Police Station. That, there is no possibility of the Petitioner absconding. That, the furlough leave application has been rejected on certain baseless and untenable apprehension faced by the Mumbra Police Station. That, the Petitioner is in incarceration since 10th October, 2010 and therefore there was never a possibility of any complaint/FIR being filed against the Petitioner. That, in the report it is observed that, the Petitioner is

member of Chota Rajan Gang. The Petitioner submits that, Chota Rajan who was co-accused in the present crime has been acquitted from all charges. That, nothing substantive has been brought on record to indicate that, the Petitioner would cause breach of public peace order. That, the grant of furlough leave is substantial legal right. That, the rejection of the furlough leave under Rule 4 (4) and Rule 4(6) of the notification dated 16th April, 2018 is totally untenable.

8) Mr. Vinod Chate, Learned A.P.P. in reply submitted that, the Assistant Commissioner of Police, Kalva Division, Thane by its letter dated 4th April, 2023 submitted an adverse police report against the Petitioner. That, the furlough leave application was rejected on the ground that, the Petitioner is associated with the Chota Rajan Gang and releasing him on furlough leave would cause threat to public peace and order. As per the Authorities, the Petitioner's case is covered under Rule 4(4) of the Rules issued under the notification dated 16th April, 2018. That, the Police Commissioner has not recommended the release of the Petitioner on the ground of public peace and tranquility. That, as per the Chapter 37 Rule 17 of the Maharashtra Prison Manual 1979, granting of furlough is not legal right.

9) Perused the record and the Affidavit in reply of Ms. Aruna A. Mugutrao. We have noted reasons for the rejection of the Application. The rejection is based on the adverse police report by the Mumbra Police Station. Considering the documents on record we noted that, there are two reasons

based on which the application of the Petitioner is rejected. Reasons being (i) Area under the control of Mumbra Police Station is sensitive area and that, if the petitioner is released on furlough leave there is possibility of breach of public peace. (ii) The Petitioner is member of Chota Rajan Gang.

10) We have also noted that, the past record of the Mumbra Police Station indicates that no offence has been registered against the Petitioner. We find that, the reasons given by the Authorities are misplaced and unfounded. A perusal of the record and the Affidavit of Respondent No. 4 does not indicate any substantial ground on which said enquiry report is based. We find that, there is no material on record on the basis of which one can arrive at the conclusion that, releasing the Petitioner on furlough would cause a issue of public order.

11) Sub-Rule 4 of Rule 4 regarding eligibility for furlough provides that, a prisoner may not be released on furlough if the release is not recommended by the Assistant Police Commissioner in the police Commissionerate area and elsewhere by the Deputy Superintendent of Police on the ground of public peace and tranquility. In our view, there is no basis to invoke provisions of sub rule against the Petitioner or to reject the application of the Petitioner for furlough. Perusal of the Orders dated 21st January, 2024 and 23rd April, 2024 do not indicate any basis for such a conclusion. The object of releasing prisoner on furlough is to enable the prisoner to maintain continuity with his family life and dealing with family matters. The object of

granting furlough is to save the prisoners from the ill effects of continuous prison life, enable him to maintain and develop his self confidence and develop constructive hope and motivate interest in life. In the present case, the Petitioner is in custody since 10th October, 2010 i.e. for more than 15 years.

12) We noted that, admittedly as per the report of the Mumbra Police Station there is no complaint or offence registered against the Petitioner. The Petitioner has already undergone sentence for more than 14 years. In our opinion, the reasons mentioned in the police report and/or reasons for the rejection of the Petitioner's application are completely untenable and baseless. We find no material on record to support the reasons which have been put forth by the police Authorities to reject the Petitioner's furlough Application. It appears to us that, the rejection is done in mechanical manner and without any cogent material. This court has time and again expressed its displeasure with the manner in which furlough applications are being dealt with by the Authorities. Many a times a rejection of the application is mere mechanical function and does not have any cogent material to support the said decision. Non-releasing of Petitioner on the ground of possibility of breach of public order is no ground to reject the Petitioner's furlough application. Maintaining the law and order and public order is in any event the duty and responsibility of the police Authorities. We find that, the apprehension in the present matter is totally untenable and baseless.

13) In view of the aforesaid reasoning, we are of the opinion that the impugned Order dated 21st January, 2024 passed by the Respondent No. 2, Deputy Director General of Prisons, Central Zone as well as impugned Order dated 23rd April, 2024 passed by the Respondent No. 3, Special Inspector General cannot be sustained and deserves to be set aside.

14) The Petitioner is granted furlough leave, as per his application and the Respondent Authorities shall release him on furlough leave subject to the requisite conditions as per law for his release.

15) Writ Petition is allowed in terms of prayer clause 'a'. Rule is accordingly made absolute.

(RANJITSINHA RAJA BHONSALE, J.)

(A. S. GADKARI, J.)