

(2018) 07 BOM CK 0101

In the Bombay High Court

Case No : Criminal Writ Petition No. 1205 of 2017

Nitin Vasant Gurav

APPELLANT

Vs

Dy. Inspector General (Prisons), East Division Nagpur And
Another

RESPONDENT

Date of Decision : 24-07-2018

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302

Citation : (2018) 07 BOM CK 0101

Hon'ble Judges : P. N. DESHMUKH, J;M. G. GIRATKAR, J

Bench : Division Bench

Advocate : G. S. Agrawal, M. H. Deshmukh

Final Decision : Disposed Off

Judgement

M. G. GIRATKAR, J

1. Rule.Â Rule made returnable forthwith.Â By consent of learned counsel for parties, heard finally.Â

2. The petitioner prayed for furlough leave for a period of 28 days vide application dated 21Â4Â2017.Â The said application came to be rejected on

the ground that no any closed relative come forward to act as a surety for the petitioner.Â The said order is under challenge in this petition.

3. It is submitted that the petitioner was convicted for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code and is

undergoing sentence of life imprisonment. Presently, he is in Open Prison at Yerwada.Â It is submitted that looking to the good behaviour/conduct of

the petitioner, he is kept in open prison.Â As per the rule, his personal bond is sufficient to release him on furlough leave.Â It is submitted that

previously, he was released on furlough and parole leave and he reported to the

prison authority within time. At last, it is submitted that order passed by respondent no. 1 dated 24/7/2017 is illegal and liable to be quashed and set aside and also prayed to direct the respondents to release the petitioner on furlough leave for a period of 28 days.

4. Heard learned counsel Shri Agrawal for the petitioner and learned Additional Public Prosecutor Mrs. Deshmukh for the respondents.

5. Learned counsel Shri Agrawal for the petitioner has pointed out decision in the case of Dipak Sudhakar Wakalekar Vs. State of Maharashtra and ors. (2011 Cr.L.J. 3263).

6. There is no dispute that the petitioner is in Open Prison, Yerwada, District Pune. As per the Prison Rules, those convicts who are having good

conduct used to be kept in open prison. Full Bench of this Court has held, in the above cited case that ".... In the light of the discussion made

above, we hold that as per the proviso to Rule 6 of the Rules 1959, a convict confined in open prison can be released on furlough by the Sanctioning

Authority by dispensing with the requirement of execution of bond by the relatives. Therefore, we hold that a convict confined in open prison

can be released on parole by the authorities by dispensing with requirement of execution of bond by the relatives.

7. In the present case, the petitioner is undergoing imprisonment in Open Prison, Yerwada, District Pune. In view of the above cited decision of Full

Bench of this Court, the petitioner is entitled for furlough leave on executing his personal bond. Hence, we are inclined to allow the petition with

direction to the respondents to release the petitioner on furlough leave for a period of 28 days on execution of personal bond by the petitioner to the

satisfaction of the authority and on other usual conditions. The petitioner shall report to the prison on due date.

8. The fees of the learned Advocate appointed for the petitioner is quantified at Rs. 1500/-.

9. The petition is disposed of in above terms.