
(2013) 09 BOM CK 0035

In the Bombay High Court

Case No : Criminal Writ Petition No. 471 of 2013

Sakhawat Hussain

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2014) ALLMR(Cri) 839

Hon'ble Judges : Z.A. Haq, J;B.R. Gavai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Z.A. Haq, J.—Heard Mr. Samundre, learned Advocate for the petitioner and Mr. Nayak, learned Additional Public Prosecutor for the respondents. Rule. Rule is made returnable forthwith.

2. The petitioner has challenged the order passed by the Deputy Inspector General (Prisons), East Region, Nagpur on 24th January, 2013 rejecting the application of the petitioner for grant of furlough. In the impugned order, it is recorded that the Superintendent of Prison, Washim, has given an adverse report against the petitioner. It is stated in the adverse report that neither the petitioner's wife nor his relatives reside at Giroli. It is stated that on earlier occasion when the petitioner was released on furlough he was absconding for 1185 days and the police was required to arrest him and bring him back to the prison. It is stated that again when he was released on parole in 2002 he was absconding for 2943 days and the police was required to arrest him under the orders of this Court and had brought him back to the prison. The Superintendent of Prison, Central Prison, Amravati, has also recommended that the petitioner should not be released on furlough. The Division Bench of this Court to which one of us (B.R. Gavai, J) is a party, in the judgment given in Criminal Writ Petition No. 224/2013 and other connected matters, relying on the judgment in the case of Murlidhar Ramchandra Bhalerao (in Jail) Vs. State of Maharashtra and The Superintendent of Prison and Ramchandra Raghu Naik Vs. State of

Maharashtra, , has held that if a prisoner does not return back to the custody and is required to be arrested by police for securing custody, he is not entitled to benefit of Rule 4 of the Prisons (Bombay Furlough and Parole) Rules 1959. In view of the facts stated above that the petitioner was required to be arrested and brought back to the prison on two occasions when he was released on furlough and parole, we are not inclined to interfere with the impugned order. The impugned order is just and proper and require no interference under Article 226 of the Constitution of India. The writ petition is dismissed with no order as to costs.