
(2001) 02 GUJ CK 0045

In the Gujarat High Court

Case No : Special Criminal Application No. 84 of 2001

Udesinh @ Tapo Surabhai

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 19-02-2001

Acts Referred:

Citation : (2001) 02 GUJ CK 0045

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Through Jail, for the Appellant; H.H. Patel, APP, for the Respondent

Final Decision : Allowed

Judgement

S.K. Keshote, J.—Rule. Mr. H.H. Patel, learned APP waives service of Rule on behalf of the State.

2. As this matter pertains to furlough, the matter is taken up for final hearing today. The application of the petitioner for furlough came to be rejected under the order of Inspector General, Prisons, dated 17/01/2001. The learned counsel for the respondent submitted that this application was rejected on two grounds namely; (i) the petitioner has failed to arrange surety; and (ii) Sarpnach has opined that his release may adversely affect the public peace.

3. So far as the first ground is concerned, it is subject to condition on which furlough is granted. It cannot be said to be a ground for rejection of the application. As and when the petitioner arranges for surety, he may be granted his due furlough and there cannot be any adverse affect on this right by the order of IG (Prisons). But, if we go by the amount for which the surety is taken is very nominal and not of any worth in these days of high costs of living. The Inspector General, Prisons, may consider the matter in the light of present scenario and the prisoners may be released on furlough on deposit of cash amount, quantum thereof may be fixed with reference to the nature of the offence or on some reasonable criteria but may not be less than Rs.10,000/- in

any case. An amount of Rs.10,000/nowadays is hardly of any value. This is what suggested by the Court is put in service then, this type of litigation may not come before this Court.

4. The matter, yet, can be examined from another aspect. The surety is taken to ensure the surrender of prisoner after expiry of period of furlough and consequence of breach of this conditions is forfeiture of the amount of the surety. As stated earlier, this amount is very nominal and surety may not have any difficulty to deposit this amount.

5. The second ground given for rejection of the application of the petitioner is wholly perverse. The learned counsel for the respondent has failed to point out any provision from the Furlough Rules wherein it is provided that the opinion of the Sarpanch is to be taken. On this application, the report of the Police is to be taken for the concerned prisoner. In such matters, if this course is permitted, it may be very dangerous and the Rules of furlough will be rendered redundant in many cases. The opinion of the Sarpanch in the cases, may not be fair and impartial. The Sarpanch is a person who represents the people of the area and there is all possibility that his report may be biased.

6. In the result, this petition succeeds and the same is allowed. The order of the Inspector General, Prisons, dated 17/01/2001 is quashed and set aside. The Inspector General, Prisons, is directed to consider the furlough application of the petitioner afresh in accordance with law and in the light of this Judgment. Rule is made absolute accordingly.