

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 818 OF 2014**

Shahanawaj Abdul Kadar Kureshi
C-15143, lodged at Yerawada
Central Prison, Pune.

.. Petitioner

Vs.

The State of Maharashtra

.. Respondent

....

Ms. Sonia Miskin Advocate appointed for the Petitioner
Mr. A.S. Shitole A.P.P. for the State

....

**CORAM : SMT.V.K.TAHILRAMANI ACTING C.J. &
DR.SHALINI PHANSALKAR-JOSHI, J.**

DATED : DECEMBER 14, 2015

P.C.:

1 Heard both sides. Rule. By consent Rule is made returnable forthwith.

2 The petitioner has preferred an application for furlough on 17.6.2013. The said application came to be rejected on 21.10.2013 by the D.I.G. (Prisons), Western Region, Pune. Being aggrieved thereby, the petitioner preferred an appeal before the Additional Director General of Police and

Inspector General of Prisons, Maharashtra State, Pune which came to be rejected by order dated 10.1.2014. It was rejected mainly in view of the amended Rule 4(13) of Chapter XXXVII of the Parole and Furlough Rules to Prisoners in Maharashtra Prisons Manual 1979. Rule 4 thereof deals with categories of prisoners who shall not be considered for release on furlough.

Amended Rule 4(13) of the Prisons (Bombay Furlough and Parole) Rules 1959 as published in the Govt. Gazette Notification Part-IV dated 23.2.2012 issued by the Home Department, Mantralaya, Mumbai, reads as under:

" In rule 4 of the Prisons (Bombay Furlough and Parole) Rules, 1959 (hereinafter referred to as "the Principal Rules"), after sub-rule (10), the following sub-rules shall be inserted, namely:---

(11)

(12)

(13) Prisoners convicted for offences such as dacoity, terrorist crimes, kidnapping, smuggling including those convicted under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and foreigner prisoners;"

3 It is seen that the petitioner was earlier convicted by

the TADA Court, Mumbai in the Bombay Bomb Blast Special Case No. 1 of 1993 under various Sections of TADA. He was sentenced to death in the said case. The petitioner then preferred SLP (Cri.) No. 637-638 of 2008 before the Supreme Court. The Supreme Court commuted the sentence of death and instead, awarded sentence of life imprisonment till natural death.

4 Looking to the facts of the case in which the petitioner is involved, the case of the petitioner clearly falls under amended Rule 4(13) of the Chapter XXXVII of the Furlough and Parole Rules to prisoners. In this view of the matter, we cannot find any error in the order rejecting the application for furlough of the petitioner as well as the order dismissing the appeal of the petitioner, hence, rule is discharged. Petition is dismissed.

5 Legal fees of advocate appointed for the petitioner shall be paid as per Rules.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [ACTING CHIEF JUSTICE]