

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1622 OF 2015

Jakir Mahefuz Alam Shaikh

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. R.B. Dhaware advocate for the petitioner
Mr. M.M. Nerlikar. APP for Respondents

CORAM : R.M. BORDE, &

K.L. WADANE, JJ

(Date : 6th APRIL, 2016.)

PER COURT :-

1 This petition is presented by a life convict, undergoing sentence of imprisonment at Nasik Jail for issuance of direction to the Jail authorities for grant of furlough leave.

2 The petitioner has been convicted for commission of offences punishable under section 376, 377, 323, 504, 506 of the Indian Penal Code and section 10 of the Protection of Children from Sexual Offences Act, 2012 and is sentenced to suffer imprisonment for life. The petitioner tendered an application for claiming furlough leave on 26.10.2015. The application has been turned down on the ground, referable to rule 14(7) of The Prisons

(Bombay Furlough & Parole) Rules, 1959. The application has also been turned down by referring to provisions of rule 4(4) of the aforesaid Rules.

3 It was pointed out by the learned Prosecutor appearing for the State that, in view of the amendment to sub rule 2 of rule 4 and inclusion of offences punishable under section 376 and 377, the application of the petitioner for grant of furlough cannot be considered favourably. Sub-rule 2 of rule 4 does not permit grant of furlough leave to prisoners convicted for offences under section 392 to 402 (both inclusive) of the Indian Penal Code. In view of inclusion of sections 376 and 377 of IPC in the category of offences specified in sub-rule 2 of rule 4, the application tendered by the petitioner cannot be considered for grant of furlough.

4 It is pointed out that the application tendered by the petitioner was prior in time and before enforcement of amended provisions of rule 4(2) of the Rules, 1959. On the date of consideration of the application i.e. as on today, rules are enforceable and as such, although the application tendered by the petitioner was prior in time, on the date of consideration of the application i.e. as on today, since the amended rules are enforceable, the request of the petitioner cannot be considered

favourably.

Criminal writ petition is devoid of substance and hence stands dismissed.

5 The remuneration of Shri R.B. Dhaware, advocate appointed to assist the Court is quantified at Rs.5,000/-.

(K.L. WADANE, J)

(R.M.BORDE, J)

vbd