

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.1414 OF 2016

Sudeb Manmohan Paul

...Petitioner

Versus

The State of Maharashtra

...Respondent

....

Ms Rohini Dandekar, Advocate appointed for the Petitioner.

Mrs. S.D. Shinde, APP for the Respondent -State.

**CORAM: SMT. V.K. TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE: 5th May, 2016.

ORAL ORDER [PER SMT. V.K. TAHILRAMANI, J.]:-

Rule. By consent rule is made returnable forthwith.

2. The petitioner had preferred an application for furlough on 31.8.2015. The grievance of the petitioner is that his application is not yet decided.

3. The learned APP has stated that the application has been decided and it has been rejected by order dated 3.5.2016. It has been rejected mainly on the ground that the petitioner has been convicted under section 364 A of the IPC. The learned APP has stated that in view of the notification dated 23.2.2012 Rule 4

of The Prisons (Bombay Furlough and Parole) Rules, 1959 has been amended and Sub Rule 13 to 19 have been added to Rule 4. She pointed out that Sub Rule 13 reads as under:-

“4. When prisoners shall not be granted furlough :

.....

4 (13) Prisoners convicted for offences such as dacoity, terrorist crimes, kidnapping, smuggling including i.e. convicted under the N.D.P.S. Act, 1985 and foreigner prisoners.”

4. Admittedly, the petitioner is convicted for offence of kidnapping hence, Sub Rule 13 would be applicable to the case. In the decision of this court (Coram: V.K. Tahilramani and Anuja Prabhudessai, JJ) dated 5th May, 2016 in the case of **Santosh Namdeo Bhuktar Vs. State of Maharashtra in Criminal Writ Petition No.3325 of 2014** and decision of this Court (Coram: V.K. Tahilramani and Anuja Prabhudessai, JJ) dated 28th April, 2016 in the case of **Sharad Derasan Shelake Vs. State of Maharashtra in Cri. W.P. 4034 of 2014** the vires of Sub Rule 13 to Rule 4 has been upheld. As the case of the petitioner clearly falls under Sub Rule 13 to Rule 4 no interference is called for, hence rule is discharged.

(SMT. ANUJA PRABHUDESSAI,J.) (SMT. V.K. TAHILRAMANI,J.)