

Vidya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3829 OF 2013

Mohd. Irfan Mohd. Indris Shaikh	... Petitioner
Vs.	
The State of Maharashtra	... Respondent

None present for the Petitioner
Mrs. A.S. Pai, APP for Respondent/State.

CORAM: **MRS.V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.**

DATE: **JUNE 13, 2016**

ORAL ORDER (Per V.K. Tahiramani, J.)

1. Heard both sides.
2. Rule. By consent, Rule is made returnable forthwith.
3. The petitioner preferred an application for furlough on 21st February, 2013. The said application came to be rejected. Being aggrieved thereby, the petitioner preferred an appeal. The said appeal came to be dismissed. Hence, this petition.
4. The application of the petitioner for furlough came to be rejected mainly on the ground that he was convicted in a case under section 364A of Indian Penal Code, i.e., in a case of kidnapping. On 23rd February, 2012 a notification was issued by the Home Department. By this

notification, Rule 4 of The Prisons (Bombay Furlough and Parole) Rules, 1959 was amended and after sub-rule 10, sub-rules 11 to 19 were added. Rule 4 sets out when prisoners shall not be granted furlough. Sub-rule (13) states that prisoners convicted for the offences such as dacoity, terrorist crimes, kidnapping etc... shall not be released on furlough. The vires of the notification dated 23rd February, 2012 was challenged before this Court in Criminal Writ Petition No. 4034 of 2014. This Court by the judgment and order dated 28th April, 2016 turned down the challenge and held that the notification was intra vires. As the petitioner has been convicted in a case of kidnapping, no error can be found with the order of the authorities rejecting the application of the petitioner for furlough. Hence, Rule is discharged.

5. The fees to be paid to the appointed counsel are quantified at Rs.2,000/-.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)