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

**CRIMINAL WRIT PETITION NO. 1344 OF 2017
(Through Jail)**

Jalindarsingh Ajitsingh Kalyani Prisoner No.C/3104 Kolhapur Central Prison, Kalamba, Kolhapur. Vs. The State of Maharashtra	...Petitioner ...Respondent
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Ms. Rohini Dandekar, Advocate appointed for the Petitioner
Mrs. G.P. Mulekar, A.P.P. for the State

**CORAM : SMT. V.K. TAHILRAMANI, &
M.S. KARNIK, JJ.
DATED : 12TH APRIL, 2017**

ORAL JUDGMENT [PER SMT. V.K. TAHILRAMANI, J.]

1. The Petitioner preferred an application for furlough on 17th March, 2016. The said application was rejected by the order dated 18th July, 2016. Being aggrieved thereby the Petitioner preferred an appeal. The appeal was dismissed by order dated 4th January 2017. Hence, this Petition.

2. The application of the Petitioner for furlough came to be

rejected firstly on the ground that he has been convicted under Sections 392 and 395 of the I.P.C. Thus in view of Rule 4(2) of the Prisons (Bombay Furlough and Parole) Rules, 1959 furlough cannot be granted to the Petitioner. Rule 4 states when prisoners shall not be granted furlough. Rule 4(2) states prisoners convicted of offences under Sections 392 to 402 (both inclusive) of the Indian Penal Code shall not be granted furlough.

3. The learned Counsel for the Petitioner urged that the Petitioner has been convicted under Sections 302, 392 and 395 of the I.P.C. She submitted that the Petitioner has undergone the imprisonment for the offences under Sections 392 and 395 of I.P.C. Hence, Rule 4(2) would not come in the way of the Petitioner being granted furlough. As far as this contention is concerned Rule 4(2) speaks of prisoners “convicted” of the offences under Sections 392 to 402 shall not be granted furlough. It is an admitted fact that the Petitioner has been convicted under Sections 392 and 395 of I.P.C. Hence Rule 4(2) would be attracted even if the Petitioner has undergone the imprisonment for the same. Only if the Petitioner is acquitted of the said offences, his application can be considered for

grant of furlough. However, such is not the case. Hence, under Rule 4(2) the Petitioner cannot be granted furlough.

4. The second ground on which the application of the Petitioner for furlough came to be rejected is that earlier when the Petitioner was released on furlough in the year 2006 he did not report back to the prison in time. Ultimately the petitioner had to be traced and arrested by the Police and brought back to prison. The overstay on the part of the Petitioner was of 144 days. During the period of overstay the Petitioner was involved in four other cases which were either of robbery or dacoity. Hence, it is apprehended that if the Petitioner is released on furlough he will again indulge in criminal activities and the Petitioner may abscond and not report to the prison in time.

5. Looking to the past history of the Petitioner it cannot be said that the above apprehension is without any basis. Hence, we are not inclined to interfere in the impugned order. Hence Rule is discharged.

6. Office to communicate this order to the Petitioner who is in Kolhapur Central Prison, Kalamba, Kolhapur.

(M.S. KARNIK, J.)

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