

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
W.P.NO. 2701 OF 2017**

Kiran Baban Amle ,]
Age 40 years presently undergoing]
a sentence of life imprisonment]
at Kolhapur Central Prison, as Convict]
No. C-6048].. Petitioner

Vs.

1) The Inspector General & Director]
General of Prisons, Old Central]
Building, 2nd floor, Pune-1]
]]
2) The Deputy Inspector General]
(Prisons), Western Region,]
Yerawada, Pune – 6].. Respondents

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Mr. Santosh S. Musale Advocate for Petitioner
Mrs. G.P.Mulekar A.P.P. for the State

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**CORAM : SMT.V.K.TAHILRAMANI AND
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATED : SEPTEMBER 27, 2017

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

1 Heard the learned counsel for the petitioner and the
learned A.P.P. for the State. Rule. By consent, rule is made
returnable forthwith and the matter is finally heard.

2 The petitioner preferred an application for furlough on 5.7.2016. The said application was rejected by order dated 9.12.2016. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 25.3.2017, hence, this petition.

3 The application of the petitioner for furlough came to be rejected on the ground that the concerned police station has objected to the petitioner being released on furlough. In addition, it is stated in the order of rejection that relatives of the deceased are staying in Mumbai and there may be danger to them if the petitioner is released on furlough. Lastly, it is stated that when the petitioner was earlier released on parole, he reported back to the prison after a delay of 30 days. As far as last ground is concerned, it is seen that there is no doubt that there was delay of 30 days in reporting back to the prison by the petitioner, however, it is seen that the petitioner had preferred an application for extension of parole for a period of 30 days. As the said application was not decided within a period of 30 days, the petitioner surrendered back to the prison as soon as the period of 30 days was over. Till the time the petitioner surrendered as he was not informed that his

application for extension was rejected, he had the impression that his application for extension was allowed. The said application came to be rejected much later by the concerned authorities. In view of the facts and circumstances of this case, the petitioner is not entirely to be blamed, hence, this cannot be said to be a good ground for rejection.

4 As far as the say of the police is concerned, that the petitioner should not be released on furlough as there may be danger to the life of relatives of the deceased who reside in Mumbai, if the petitioner is released on furlough, the rejection order itself shows that prior to this, the petitioner was released on parole and during the period that he was on parole, he did not indulge in any cognizable or non-cognizable offence. It is further stated in the said order that the petitioner was regularly attending the police station during the period that he was on parole. Thus, this shows that there was no threat to the relatives of the deceased during the period that the petitioner was released on parole. In this view of the matter, we do not think that these two grounds are good grounds for rejecting the application of the petitioner for furlough.

5 The last ground on which the application of the

petitioner for furlough came to be rejected is that his appeal is pending before the Court. As far as this ground of rejection is concerned, it is seen that the application of the petitioner for furlough is dated 5.7.2016 whereas, it is only in Notification dated 26.8.2016 that it is stated that prisoners whose appeal against conviction is pending before the higher Court, shall not be eligible to be released on furlough. As the application of the petitioner for furlough is prior to this Notification, this Notification cannot be retrospectively made applicable to the application of the petitioner for furlough.

6 In view of the above facts, we set aside the order rejecting the application of the petitioner for furlough as well as the order in appeal dated 25.3.2017. The petitioner to be released on furlough on usual terms and conditions set out by the jail authorities. Rule is made absolute in above terms. Petition is disposed of accordingly.

[DR.SHALINI PHANSALKAR-JOSHI,J.] [SMT.V.K.TAHILRAMANI, J.]