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

CRIMINAL WRIT PETITION NO. 3178 OF 2017

Taju @ Subhan @ Tajjuddin Sherali Lal Mohammad ...Petitioner
Vs.

The State of Maharashtra

...Respondents

Ms. Rohini M. 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 : 4TH OCTOBER, 2017

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

1. Heard both sides.
2. The Petitioner preferred an application for furlough on 25th July, 2016. The said application came to be rejected by order dated 22nd December, 2016, being aggrieved thereby the Petitioner preferred an appeal. The appeal was dismissed by order dated 8th June 2017, hence this Petition.

3. On perusal of the order of rejection it shows that the application of the Petitioner is rejected on following grounds:

1. That the police report is adverse.
2. The Petitioner is involved in 10 serious offences.
3. The Petitioner is involved in serious offences, hence if he is released on furlough there is possibility of the Petitioner indulging in serious offences due to which law and order situation will arise.
4. If the Petitioner is released on furlough there may be danger to the life of the witness.
5. In the year 2015 when the Petitioner was released on furlough he did not report back in time to the Prison and there was delay of 14 days on the part of the Petitioner in reporting to the prison in time.
6. As per Rule 17 of Chapter XXXVII of Maharashtra Prison Manual, 1979 release on furlough is not a right.

4. As far as 1st 3rd and 5th grounds are concerned the jail record of the Petitioner shows that on 6th August 2013 he was released on

furlough and he reported back to the Prison in time. So also on 29th October, 2015 he was released on furlough and he reported back to the Prison in time. During these two periods when he was released on furlough there is no complaint that the Petitioner was involved in any offence of cognizable or non-cognizable nature. There is no record to show that the Petitioner threatened the witness in any manner or there was danger to the life of the witness. Thus these three grounds are not good grounds for rejecting the application of the Petitioner for furlough.

5. As far as ground No.5 is concerned that in the year 2015 when the Petitioner was released on furlough he did not report back to the prison in time and there was overstay of 14 days on the part of the Petitioner in reporting back to the prison, it is seen that in 2015 on 29th October 2015 the Petitioner was released on furlough for 14 days. Thereafter the jail record of the Petitioner shows that the Petitioner preferred an application for extension of furlough for 14 days. The said extension was granted. As soon as the extended 14 days period was over the Petitioner reported back to the Prison. Thus it cannot be said that there was any over stay of 14 days on the part of the

Petitioner in the year 2015.

6. As far as ground No.2 is concerned no doubt that the Petitioner is involved in ten offences which took place during the period from 1998 to 2007. However except two cases the other cases can be said to be the offences which are not serious in nature. As stated earlier the Petitioner has been released on furlough on two occasions and he has reported back to the prison in time. During the period when the Petitioner was on furlough on these two occasions the Petitioner did not come to the adverse notice of the authorities. Seeing all these facts we are inclined to grant furlough to the Petitioner.

7. The Petitioner to be released on furlough on usual terms and conditions as set out by the Jail authorities.

8. Rule is made absolute in above terms.

9. The 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.)