

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 543/2017

(PRAKASH RAMBHAU JADHAV (IN JAIL) **VERSUS** THE D.I.G. CENTRAL PRISON (E) NAGPUR &
 ANOTHER)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Mrs.S.P. Kulkarni, Appointed Counsel for the petitioner.
 Shri P.S. Tembhare, A.P.P. for the respondents.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : AUGUST 21, 2017.

By this criminal writ petition, the petitioner challenges the order of D.I.G. Prisons, Nagpur dated 28.02.2017 rejecting the application of the petitioner for his release on furlough leave.

On hearing the learned counsel for the parties and on a perusal of the impugned order, we find that the D.I.G. Prisons was not justified in rejecting the application of the petitioner on the ground that on the earlier occasions when the petitioner was released on furlough-parole leave, he had surrendered one day and twenty nine days later. Merely because the petitioner had surrendered a little belatedly on the two earlier occasions in the year 2011 and 2013, his application for grant of furlough leave could not have been rejected in the year 2017. Also, the rejection of the application by resorting to the provisions of Rule 4(11) of the Rules of 1959 would also not be proper as the said rule is challenged in this Court in a couple of criminal writ petitions and after this Court *prima-facie* found that the challenge to

the said rule was correct, furlough leave was granted to the petitioners that had filed the said writ petitions. Merely because an appeal is filed by a convict and the same is pending, furlough leave cannot be refused to the said convict. In the circumstances of the case, we are inclined to quash the order of the D.I.G. Prisons and direct the respondents to release the petitioner on furlough leave only if the relative of the petitioner furnishes surety as is required by Rule 6 of the Rules of 1959.

Hence, for the reasons aforesaid, the criminal writ petition is allowed. The impugned order is quashed and set aside. The respondent no.1 is directed to release the petitioner on furlough leave within seven days from the date on which the relative of the petitioner furnishes surety as required by Rule 6 of the Rules of 1959. The professional fees of the learned counsel for the petitioner are quantified at Rs.1,500/-.

Order accordingly.

JUDGE

JUDGE

APTE