

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

CRIMINAL WRIT PETITION NO. 719/2017

(KISHOR SHAMRAO BHOYAR (IN JAIL) VERSUS THE D.I.G. (PRISONS) (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

Shri Mir Nagman Ali, counsel for the petitioner.
 Shri A.M. Deshpande, A.P.P. for the respondent/State.

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

DATE : AUGUST 11, 2017.

By this writ petition, the petitioner challenges the order of the D.I.G. (Prisons), Nagpur, dated 25.07.2017 rejecting the application of the petitioner for grant of furlough leave.

The application of the petitioner is rejected on two grounds. Firstly, the D.I.G. (Prisons) has relied on the provisions of Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959, as amended in the year 2016 as an appeal is filed by the petitioner against his conviction. The second ground for rejecting the furlough leave is that the person, who the petitioner had named for furnishing the surety, that is the mother-in-law of the petitioner, is not ready to furnish the surety and take the responsibility of the petitioner.

The learned counsel for the petitioner states that Rule 4(11) of the Rules would not apply to the case of the petitioner as in this case, the petitioner had not applied for grant of bail in the appeal filed against his conviction. It is stated that the mother-in-law of the sister of the petitioner, viz. Kalawati Kukadkar is ready to furnish the surety and the respondents may verify the said position.

In the circumstances of the case, we find that the provisions of Rule 4(11) of the Rules would not apply as in the appeal filed by the petitioner against his conviction, he had not applied for bail and therefore, there was no question of rejecting the bail application. As regards the second ground, since the petitioner has named Kalawati Kukadkar, who is the mother-in-law of his sister and who is ready to furnish surety, it would be necessary to allow the writ petition by directing the respondents to accept the surety furnished by Kalawati Kukadkar, if she is ready to furnish the same.

With the aforesaid directions to the respondents, we dispose of the writ petition.

JUDGE

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