

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Writ Petition No.757 of 2017
(Kishor Tanaji Patil .vs. State and another)

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Ms Shweta Wankhede, Advocate for the petitioner.
Mr.P.S.Tembre, A.P.P. for the Respondents 1 and 2.

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

DATE : 5.9.2017.

By this Criminal Writ Petition, the petitioner challenges the order of the D.I.G. (Prisons), Nagpur dt.21.7.2017 rejecting the application of the petitioner for grant of furlough leave.

The application of the petitioner for furlough leave was rejected on two grounds. According to the first reason, the relative of the petitioner, who is stated to be ready to furnish surety for his release, had stated that he does not know the petitioner and is not ready to furnish surety for him. The other reason for rejecting the furlough leave application is that the petitioner has filed an appeal against his conviction and the same is pending before the High Court.

The rejection of the furlough leave application of the petitioner by relying on rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959 does not appear

to be correct. Merely because the appeal filed by the petitioner against his conviction is pending, the petitioner cannot be deprived of the furlough leave. The provisions of Rule 4(11) of the Rules are challenged in a couple of Writ Petitions and this Court, after finding merit in the challenge to the said Rule, has directed the respondents to grant furlough leave to the petitioners in the said Writ Petitions. In the instant case also, furlough leave could be granted to the petitioner if the petitioner furnishes surety of any other relative, as is required by Rule 6 of the Rules of 1959.

Hence, for the reasons aforesaid, the Writ Petition is allowed. The respondents are directed to release the petitioner on furlough leave, if any other relative of the petitioner furnishes the surety, as is required by Rule 6 of the Rules.

The respondents are directed to release the petitioner on furlough leave within seven days from the date on which the relative of the petitioner furnishes surety. Order accordingly.

JUDGE

JUDGE

**jaiswal*