

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

CRIMINAL WRIT PETITION NO. 868/2017

(SANA AMAN KHAN PATHAN (IN JAIL) **VERSUS** DIG PRISON (E)(R), NAGPUR & ANOTHER)

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

Court's or Judge's orders

Ms S.B. Khobragade, counsel for the petitioner.
Mrs.N.R. Tripathi, A.P.P. for the respondents.

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

DATE : SEPTEMBER 28, 2017.

By this criminal writ petition, the petitioner challenges the order of the D.I.G. Prisons, Nagpur, dated 04.09.2017, rejecting the application of the petitioner for grant of furlough leave.

We are not impressed with both the reasons recorded by the D.I.G. Prisons for rejecting the application of the petitioner. Merely because the relatives of the victim have stated that the petitioner may not be released on furlough or parole leave, the right of the petitioner to be released on furlough or parole leave should not be seriously affected. The other reason that the appeal filed by the petitioner against the judgment of his conviction is pending in this Court cannot be a ground for rejecting the furlough leave application. Rule 4(11) of the Rules of 1959 is challenged in a couple of writ petitions and this Court has, after *prima-facie* finding that there is merit in the challenge, directed the respondents to release the petitioners in those writ petitions on parole or furlough leave. On parity, similar treatment needs to be extended to the petitioner also.

Hence, for the reasons aforesaid, the criminal writ petition is allowed. The impugned order is quashed and set aside. The respondents are directed to release the petitioner on furlough leave within seven days from the date on which the petitioners relative furnishes surety as is required by the Rule 6 of the Rules of 1959.

Order accordingly.

JUDGE

JUDGE

APTE