

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

CRIMINAL WRIT PETITION NO. 1796 OF 2018

Janardan @ Shankar Tukaram Baing ...Petitioner
Versus

Additional Director General of
Police and anr. ...Respondents

Ms Rohini M. Dandekar, Advocate appointed for the
Petitioner.

Mr. Arfan Sait, APP for the Respondents – State.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J.&
M. S. SONAK, J.**

DATE : 05.06.2018.

ORAL JUDGMENT [PER SMT. V.K. TAHILRAMANI, A.C.J.] :

1] Heard both sides.

2] The petitioner has preferred an application for furlough on 28.06.2017. The said application was rejected by order dated 11.12.2017. Being aggrieved thereby, the petitioner has preferred an appeal. The appeal was dismissed by order dated 15.02.2018, hence, this petition.

3] The application of the petitioner for furlough was rejected on the ground that the appeal preferred by the

petitioner against his conviction and sentence is pending before the higher court. This was in pursuance to Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959 (Rules 1959), as it stood then. The said Rule stated that where the appeal of a prisoner against his conviction is pending before the higher forum, he shall not be eligible to be granted furlough. However, by Notification dated 16.04.2018, the said Rule has been deleted. In this view of the matter, we set aside the orders dated 11.12.2017 and 15.02.2018 and remand the matter back to the Sanctioning Authority to decide the matter afresh.

4] Rule is made absolute in the above terms.

5] Office to communicate this order to the petitioner, who is in Kolhapur Central Prison, Kalamba Kolhapur.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

D.S.Sheria