

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3234 OF 2018**

Sameer @ Shera Shafiq Qureshi	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Ms Rohini Dandekar for Petitioner.
Mrs. G. P. Mulekar - APP for State.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.
DATE : 02 AUGUST 2018**

ORAL JUDGMENT : (SMT. V. K. TAHILRAMANI, Acting C. J.)

- 1] Heard both sides.

- 2] Rule. With the consent and at the request of the learned counsel for the parties, Rule is made returnable forthwith & the matter is heard finally.

- 3] The petitioner had preferred an application for furlough on 6th June 2017. The said application was rejected by order dated 13th November 2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 22nd March 2018. Hence, this petition.

- 4] From the order of the rejection, it is seen that the main ground for rejecting the application of the petitioner for

furlough was that his appeal against his conviction and sentence is pending before the higher court i.e. the Hon'ble Supreme Court. This was in view of Notification dated 26th August 2016. However, Ms Dandekar pointed out that the said Notification has been substituted by Notification dated 16th April 2018 and the said provision that the prisoner shall not be eligible to be granted furlough if his appeal is pending has been deleted. She submitted that in this view of the matter, the main ground for rejecting the application of the petitioner for furlough is no longer a good ground. We find much merit in this submission. Hence, we set aside the orders dated 13th November 2017 and 22nd March 2018 and the matter is remanded back to the concerned Authority for deciding the application of the petitioner for furlough afresh.

5] Rule is made absolute in above terms.

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

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA