

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

CRIMINAL WRIT PETITION NO. 3128 OF 2017

Yashwant Dadu Girigosavi (C-5643)	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Ms Rohini Dandekar - Advocate Appointed for Petitioner.
Mr. Arfan Sait - APP for State.

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

DATE : 08 AUGUST 2018

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

- 1] Heard both sides.

- 2] The petitioner had preferred an application for parole on 7th December 2016. The said application was rejected by order dated 10th February 2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 29th April 2017. Hence, this petition.

- 3] On going through the order of the rejection, it is noticed that the main reason for rejecting the application of the petitioner for parole was that the appeal preferred by

him against his conviction and sentence was pending before the higher Court. This was in view of the Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959, which was introduced by Notification dated 26th August 2016. It is an admitted fact that the said Notification is no longer in existence and it has been substituted by Notification dated 16th April 2018. In the Notification dated 16th April 2018, the said provision has been deleted. Thus, now this ground cannot be a good ground to deny parole to the petitioner.

4] In this view of the matter, the orders dated 10th February 2017 and 29th April 2017 are set aside and the matter is remanded back to the Competent Authority for deciding the same 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)