

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 581 OF 2018**

Vishal R. Jadhav	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondents

Mr. D.G. Khamkar for the Petitioner.
Mr. Arfan Sait, APP for the Respondent-State.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.
DATE : 25.04.2018.**

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

- 1] Heard both sides.

- 2] The petitioner had preferred an application for furlough on 1.01.2017. The said application was rejected by order dated 20.03.2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 26.09.2017, hence, this petition.

- 3] The application of the petitioner for furlough came to be rejected only 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). 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. Hence, this ground is not a good ground to reject the application of the petitioner for furlough.

4] In addition to the above, the jail record of the petitioner shows that on 10.04.2013 and 19th May 2016, the petitioner was granted furlough. On both occasions, the petitioner has reported back to the prison on due date on his own. The petitioner was released on parole on 3.02.2012 and 8.8.2013 and on both occasions, he has reported back to the prison on his own. No doubt, on 3rd February 2012, the petitioner reported one day late to the prison. However, it is seen that he has surrendered on his own to the prison and it is not the case that the petitioner was arrested and brought back to the prison. Moreover during the period the petitioner was on parole and furlough, there is no material to show that he has

misused the liberty granted to him. In this view of the matter, we are inclined to set aside the orders dated 20.03.2017 and 26.09.2017 and grant furlough to the petitioner. The petitioner to be released on furlough on usual terms and conditions as may be imposed by the Sanctioning Authority.

5] Rule is made absolute in the above terms.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

D.S.Sheria