

Sequeira

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

CRI. WRIT PETITION NO. 2671 OF 2018

Mr.Suresh Raghunath Patil

... Petitioner

Vs.

The State of Maharashtra and others

... Respondents

Mr.Daulat G.Khamkar, for the Petitioner.

Mr.H.J.Dedhia, APP for State.

***CORAM : S. S. SHINDE &
MRS.MRIDULA BHATKAR, JJ.***

Date : September 6, 2018.

P.C. :

The learned counsel appearing for the Petitioner makes an oral prayer so as to add one more prayer in the prayer clauses. Prayer granted. Amendment to be carried out forthwith.

2. On perusal of the order impugned in this Petition, it appears that the Application of the Petitioner to release him on furlough was rejected on as many as nine grounds. Admittedly, the Petitioner was released on furlough on 21 July 2016 pursuant to the order passed by the Division Bench (*Coram :- Smt.V.K.Tahilramani and Mrs.Mridula Bhatkar, JJ.*) in Criminal Application No.1914 of

2015. It appears that similar grounds were mentioned in the order impugned in that petition except that the appeal filed by the Petitioner is pending before the High Court. The Division Bench (*Coram:- Smt.V.K.Tahilramani and Mrs.Mridula Bhatkar, JJ.*) while considering the case of the Petitioner herein observed that, since the sub-rule 11 of Rule 4 of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2016 has been deleted by notification dated 16 April 2018, the ground that the appeal is pending before the High Court, to reject the application for furlough cannot sustain. Keeping in view the observations made by the Division Bench in the Petition filed by the Petitioner, which was decided on 21 July 2016, in Criminal Writ Petition No.1914 of 2015 and also in Criminal Writ Petition No.1327 of 2018 decided on 15 June 2018, we are inclined to quash and set aside the impugned order. Accordingly, the impugned order is quashed and set aside.

3. Looking to the fact that when the Petitioner was released on parole on two occasions and on one occasion on furlough, he returned back to the prison on the due date, we are inclined to grant furlough to the Petitioner. The Petitioner be released on furlough on the usual terms and conditions as set out by the jail Authority. Rule is made absolute on the above terms. The Petition is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)