

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

CRIMINAL WRIT PETITION NO. 3185 OF 2017

Kailas Mangal Pawshe	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Ms Rohini Dandekar – Advocate Appointed for Petitioner.
Mrs. G. P. Mulekar – APP for Respondent – State.

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

DATE : 03 MAY 2018

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

- 1] Heard both sides.

- 2] The petitioner preferred an application for furlough on 19th October 2016. The said application was rejected by order dated 23rd January 2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 3rd July 2017. Hence, this petition.

- 3] On going through the order of rejection and the appellate order, it is seen that the application of the

petitioner for parole was rejected on the ground that appeal preferred by him against his conviction was pending in the higher court. This was in view of Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959. Rule 4(11) stated that if the appeal preferred by a prisoner against his conviction was pending before a higher court he was not eligible to be granted furlough. However, it is an admitted fact that by Notification dated 16th April 2018, the said Rule has been deleted.

4] The second ground on which the application of the petitioner came to be rejected on 1st July 2016 is that when the petitioner was released on parole, there was delay of 56 days in reporting back to the prison. As far as this ground is concerned, it is seen that thereafter the said parole period was extended, hence it cannot be said that there was any overstay on the part of the petitioner.

5] The third ground is that on 2nd March 2015, when the petitioner was granted furlough there was delay of 1 day in reporting back to the prison. We are of the opinion that as the petitioner had reported back on his own to the prison,

delay of 1 day is not such a serious ground as to deny furlough to the petitioner.

6] Looking to the above facts, we set aside the orders dated 23rd January 2017 and 3rd July 2017 and grant furlough to the petitioner. The petitioner be released on furlough on the usual terms and conditions as imposed by the sanctioning authority. Rule is made absolute in above terms.

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

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA