

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

CRIMINAL WRIT PETITION NO. 3760 OF 2017

Jitendra A. Chavan

...Petitioner

Versus

The Commissioner of Police
& Inspector General of Prison and anr.
...Respondents

Mr. B.G. Tangsali 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 has preferred an application for furlough on 20.10.2016. The application was rejected by order dated 17.2.2017. Being aggrieved thereby, the petitioner has preferred an appeal. The said appeal was dismissed by order dated 27.06.2017, hence, this petition.

3] One of the main grounds for rejecting the application of the petitioner for furlough is that he was convicted for an offence of rape. In fact, the petitioner has been

convicted under sections 307, 376 (2)(c), 377, 304-II and 506 of Indian Penal Code, 1860 (I.P.C) read with 25 of Juvenile Justice (Care and Protection of Children) Act, 2015. As per Notification dated 1.12.2015, the prisoner convicted for an offence of rape is not eligible for release on furlough. Hence, this was one of the main grounds for rejecting the application of the petitioner for furlough.

4] Learned counsel for the petitioner submitted that in fact the petitioner has undergone the sentence of imprisonment imposed on him under section 376 (2)(c) of the I.P.C. and hence, the petitioner can now be granted furlough.

5] Rule 4(2) of the Prisons (Bombay Furlough and Parole) Rules, 1959 provides that if a prisoner is convicted for offence under section 376 of the I.P.C., he shall not be eligible for release on furlough. There is no provision in the said Rule that if the prisoner has undergone the sentence under section 376 of I.P.C., he would be eligible for release on furlough. In view of the Rule 4 of Rule 1959, we find no fault in rejecting the

application of the petitioner for furlough. Hence, Rule is discharged.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

D.S.Sherla