

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

CRIMINAL WRIT PETITION NO. 4048 OF 2017

Sachin M. Barje

...Petitioner

Versus

The State of Maharashtra

...Respondent

Ms Rohini M. Dandekar, Advocate Appointed 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 03.12.2016. The said application was rejected by order dated 3.04.2017. Being aggrieved thereby, the petitioner has preferred an appeal. The appeal was dismissed by order dated 19.07.2017, hence, this petition.

3] The application of the petitioner for furlough was rejected 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.

4] As the only ground, on which, the application of the petitioner for furlough was rejected is that his appeal was pending before the higher court and as the Rule is no longer in existence, we are inclined to grant furlough to the petitioner. We are also inclined to grant furlough to the petitioner, in view of the fact that on 15.09.2016, he was granted furlough and he reported back to the prison on the due date of his own. In addition, during the period the petitioner was on furlough, there is no material to show that he has misused the liberty granted to him. In view of all these facts, we are inclined to 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.

6] Office to communicate this order to the petitioner, who is in Nashik Road Central Prison, Nashik.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

D.S.Sherla