

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

CRIMINAL WRIT PETITION NO. 4107 OF 2017

Avinash @ Suraj Ashok Singh	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Mr. Prosper D'souza for Petitioner.
Mr. Arfan Sait - APP for State.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.
DATE : 06 AUGUST 2018**

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

- 1] Heard both sides.
- 2] Rule. By consent, Rule is made returnable forthwith and the matter is heard finally.
- 3] The petitioner had preferred an application for furlough on 10th December 2016. The said application was rejected by order dated 20th April 2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 18th August 2017. Hence, this petition.
- 4] On going through the order of the rejection, it is noticed that the main reason for rejecting the application of

the petitioner for furlough was that the appeal preferred by him against his conviction and sentence was pending before the higher Court. This was in view of the Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959, which was introduced by Notification dated 26th August 2016. It is an admitted fact that the said Notification is no longer in existence and it has been substituted by Notification dated 16th April 2018. In the Notification dated 16th April 2018, the said provision has been deleted. Thus, this ground cannot be a good ground to deny furlough to the petitioner.

5] In this view of the matter, the orders dated 20th April 2017 and 18th August 2017 are set aside and the matter is remanded to the Sanctioning Authority for deciding the same afresh.

6] Rule is made absolute in above terms.

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

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Sunita
Kishandas
Chandka

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Sunita Kishandas
Chandka

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