

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4241 OF 2017**

Iliyas @ Illu Navaz Khan	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Mrs. Nasreen S. K. Ayubi for Petitioner.
Mrs. G. P. Mulekar - 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 the 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 5th February 2016. The said application was rejected by order dated 7th February 2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 23rd May 2017, hence this petition.
- 4] The application of the petitioner came to be rejected

mainly on the ground that in the year 2013 when he was released on furlough, he did not report back to the prison in time and he absconded. Thereafter after 41 days, the police arrested the petitioner in another crime which was under the Arms Act. The said case was CR No. 528/13 of Shivaji Nagar Police Station. After the police arrested the petitioner, he was brought back to the prison. Thus, it is seen that not only there was overstay of 41 days on the part of the petitioner but in addition the petitioner during the period of furlough has committed another offence which is under the Arms Act. In view of these facts, the application of the petitioner came to be rejected on the apprehension that if he is granted furlough, he will not report back in time and he will abscond and further if he is released on furlough there may be a law and order problem and the petitioner will not comply with the terms and conditions if he is released on furlough.

5] Looking to the past conduct of the petitioner, it cannot be said that the apprehension in the mind of the Authorities is without any basis. Hence no case is made out to interfere.

6] The petitioner has also made reference to earlier

orders of rejection of the years 2015 i.e. 7th January 2015 and 22nd August / September 2015 whereby his application for furlough was rejected. Note (3) of Rule 3 of The Prisons (Bombay Furlough and Parole) Rules, 1959 states that if at any time a prisoner who could have been granted furlough is either not granted or is refused the same, the period for which he could have been granted furlough shall not be carried forward but shall lapse. In this view of the matter, it is not possible to go into the earlier orders of rejection. This is also because the petitioner thereafter preferred a fresh application for furlough which came to be rejected and we can only go into the last order of rejection.

7] In view of the above, no case is made out for interference. Rule is discharged.

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

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

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Kishandas
Chandka

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