

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

CRIMINAL WRIT PETITION NO. 4244 OF 2017

Pandu M. Monde

...Petitioner

Versus

The State of Maharashtra

...Respondent

Mr. Prosper D'Souza, 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 13.12.2016. The said application was rejected by order dated 20.04.2017. Being aggrieved thereby, the petitioner has preferred an appeal. The appeal was dismissed by order dated 31.08.2017, hence, this petition.

3] The main reason for rejecting the application of the petitioner for furlough is 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. 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. 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, in this view of the matter, we are inclined to set aside the orders dated 20.04.2017 and 31.08.2017 and 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.

4] Rule is made absolute in the above terms.

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

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)