

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

CRIMINAL WRIT PETITION NO. 4783 OF 2017

Panu N. Bhonar	...Petitioner
<i>Versus</i>	
The State of Maharashtra	...Respondents

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 15.02.2017. The said application was rejected by order dated 05.05.2017. Being aggrieved thereby, the petitioner has preferred an appeal. The appeal was dismissed by order dated 25.09.2017, hence, this petition.

- 3] The application of the petitioner for furlough came to be rejected firstly on the ground that the appeal preferred by the petitioner against his conviction and sentence is pending

before the higher court. The second ground, on which, the application came to be rejected is on the ground that if the petitioner is released on furlough, there may be danger to life of the complainant and his family members. The third ground, on which, the application of the petitioner for furlough came to be rejected is that when the petitioner was released on furlough on 2nd June 2016, there was delay of one day on the part of the petitioner in surrendering back to the prison.

4] As far as the last ground is concerned, it is an admitted fact that the petitioner himself surrendered back to the prison and it was not a case of the petitioner being arrested by the police and being brought back to the prison. Moreover, the delay is of only one day. We do not think that this ground is such a serious ground as to deny furlough to the petitioner.

5] As far as the first ground is concerned, Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959 (Rules 1959), which stated, if the appeal preferred by the 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 from the Rules. Hence, this ground is no longer a good ground to deny the petitioner furlough.

6] As far as the second ground is concerned, the jail record of the petitioner shows that on 26th June 2013, he was released on furlough and he has reported back on the due date on his own to the prison. Thereafter, the petitioner was released on furlough on 2nd June 2016 and he has reported back on his own to the prison though after a delay of one day. During both the periods, the petitioner was released on furlough, there is no material to show that the petitioner has misused the liberty granted to him or to show that the petitioner has threatened the complainant or his family members. In this view of the matter, we are of the opinion that none of the grounds are good grounds to reject the application of the petitioner for furlough. In this view of the matter, we are inclined to set aside the orders dated 05.05.2017 and 25.09.2017 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.

7] Rule is made absolute in the above terms.

8] 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