

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4797 OF 2017**

Irappa @ Sharmal S. Dhangar	...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 had preferred an application for furlough. The said application was rejected by order dated 21.03.2017. Being aggrieved thereby, the petitioner preferred an appeal. The appeal was dismissed by order dated 26.07.2017, hence, this petition.

- 3] One of the main grounds 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 (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. Hence, this ground is not a good ground to reject the application of the petitioner for furlough. It appears that this was the main ground which influenced the authority while deciding the application of the petitioner of furlough. In this view of the matter, we set aside the orders dated 21.03.2017 and 26.07.2017 and the matter is remanded back to Sanctioning Authority to consider the application of the petitioner for release on furlough afresh. The same to be done expeditiously 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)

D.S.Sherla