

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5089 OF 2018**

Danesh Istiyak Ansari

..Petitioner

Vs.

The State of Maharashtra & Ors

..Respondents

Mr. S. D. Chavan for the Petitioner

Mr. Avinash D. Kamkhedkar Addl PP for the Respondent State

CORAM :R. M. SAVANT, &

N. J. JAMADAR, JJ

DATE : 29th NOVEMBER, 2018

P.C.

1 The above Writ Petition has been filed challenging the order dated 15-5-2018 passed by the Additional Director General of Police and Inspector General of Prisons, Maharashtra State, Pune, by which order the application for furlough filed by the Petitioner came to be rejected. The said rejection is on the application of Rule 4(4) and 4 (6) of the Prison Rules 1979 which regulate the grant of furlough.

2 It is inter alia mentioned in the impugned order that the Petitioner has created an atmosphere of terror in the society and that he has coerced the relatives and witnesses of the complainant for not giving evidence in court. The order refers to the gruesome manner in which the murder of the deceased took place. The Petitioner has been convicted under Sections 302 (part-II) of the IPC on 30-11-2016 and is presently undergoing sentence in the Central

Prison Kolhapur.

3 It is required to be noted that for the purposes of calculating the two years period on the expiry of which a prisoner becomes eligible for the grant of furlough, the said period is therefore required to be calculated in terms of Note – 2 to Rule 3 of the Prisons Rules 1959. If done accordingly, then the Petitioner in the instant case becomes eligible for the grant of furlough. The total furlough leave that can be granted is for a period of 21 days in one calendar year as per the Notification dated 16-4-2018. It is required to be noted that the report of the ACP, Western Division, Bhiwandi as well as DIG Prisons, Western Division, Pune-6, are on the same lines, namely revolving around the atmosphere of alleged terror, intimidation that would be created by the Petitioner's presence.

4 In our view, having regard to the facts of the present case where there is nothing adverse against the Petitioner after his incarceration, it would be just and proper to release the Petitioner on furlough leave for a period of 14 days from the date of his release which would be on or before 1-12-2018. The Petitioner to report to the Bhiwandi Police Station every alternate day during the currency of the furlough leave. The Petitioner to report back to the Central Prison, Kolhapur at the end of the furlough period.

5 The Petition is allowed to the aforesaid extent and is disposed of
as such.

6 All parties to act upon a copy of the instant order duly
authenticated by the Court Shirestedar.

[N. J. JAMADAR, J]

[R.M.SAVANT, J]