

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

CRIMINAL WRIT PETITION NO. 5345 OF 2017

Indin @ Moiddin Sayyad Ali Shaikh	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

Mr. D. G. Khamkar for Petitioner.
Mrs. G. P. Mulekar - APP for Respondents - State.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 03 MAY 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 11th January 2017. The said application was rejected by order dated 31st October 2017. Being aggrieved thereby, the petitioner preferred an appeal, the appeal was dismissed by order dated 20th November 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

him against his conviction is pending before the higher court. This was in view of the Rule 4(11) of the Prisons (Bombay Furlough and Parole) Rules, 1959. It is an admitted fact that by Notification dated 16th April 2018, the said Rule has been deleted. Hence, this ground cannot be said to be a good ground to deny furlough to the petitioner.

4] In this view of the matter, the orders dated 31st October 2017 and 20th November 2017 are set aside and the matter is remanded back to the concerned authority to decide the application of the petitioner afresh. The same to be done as expeditiously as possible by the concerned authority. Rule is made absolute in the aforesaid terms.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA