

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPW) NO.29/2018

IN

CRIMINAL WRIT PETITION NO.20/2018 (D)

State of Maharashtra, through Deputy Inspector General of Prison, Eastern
Region, Nagpur and another

...Versus...

Bannasingh @ Rupsingh Attarsingh Bawari

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri B.M. Lonare, APP for applicants
Ms S.D. Wankhede, Counsel for non-applicant

CORAM : SMT. VASANTI A NAIK AND
ARUN D. UPADHYE, JJ.

DATE : 09/02/2018

By this criminal application, the applicants are seeking recall of the order dated 16/1/2018 in Criminal Writ Petition No.20/2018.

It is stated by the learned Additional Public Prosecutor that before Criminal Writ Petition No.20/2018 was decided it was not pointed out to the Court that the non-applicant – original petitioner was convicted for the offence punishable under Section 398 of the Penal Code that relates to attempt to commit dacoity when armed with deadly weapons. It is stated that in view of Rule 4 (13) of the Prisons (Bombay Furlough and Parole) Rules, 1959, furlough cannot be granted to a prisoner

who is convicted for the offence of dacoity. It is stated that the fact that the original petitioner had been convicted under the provisions of Section 398 of the Penal Code for attempting to commit dacoity with deadly weapons was not brought to the notice of this Court. It is stated that in the circumstances of the case, the order dated 16/1/2018 may be recalled.

On hearing the learned Counsel for the parties and on a perusal of the Rules of 1959, it is clear that furlough could not have been granted to the original petitioner as he was convicted for the offence of attempting to commit dacoity with deadly weapons, and in view of Rule 4 (13) of the Rules of 1959 he was not entitled to be released on furlough.

Hence, we recall the order dated 16/1/2018 and dismiss the criminal writ petition.

Order accordingly.

JUDGE

JUDGE

Wadkar