

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

CRIMINAL WRIT PETITION NO.205 OF 2018

[Nanaji s/o Hagru Shingade .vs. State of Maharashtra and one]

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

Court's or Judge's orders

Shri R.D. Hajare, counsel (appointed) for the petitioner,
Mrs. Tripathi, APP for the respondents.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 09, 2018.

Heard.

By this criminal writ petition the petitioner challenges the order of the D.I.G. Prisons, Nagpur dated 20.9.2017 rejecting the application of the petitioner for grant of furlough leave.

The furlough leave application of the petitioner is rejected only on the ground that the appeal filed by the petitioner against the order of his conviction is pending in the High Court.

Rule 4 (11) of the Prisons (Bombay Furlough and Parole) Rules, 1959 provides that furlough leave may not be granted to a prisoner whose appeal against his conviction is pending. In a number of criminal writ petitions, this court has after *prima facie* finding that the rule is arbitrary and unreasonable, granted furlough leave to several prisoners. Merely because the appeal filed by a prisoner is pending, furlough leave cannot be denied to him. We find that the police report is favorable to the petitioner and the only reason for rejecting his furlough leave application is that the appeal filed by him is pending in the High Court. It is also stated on behalf of the petitioner that the appeal filed by the petitioner in the High Court is dismissed.

In the circumstances of the case, the criminal writ petition is allowed. The impugned order is quashed and set aside. The

respondents are directed to release the petitioner on furlough within seven days from the date on which the relative of the petitioner furnishes the surety, as is required by Rule 6 of the Prisons (Bombay Furlough and Parole) Rules, 1959. Order accordingly.

JUDGE

JUDGE

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