

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 221/2018

(SANDIP DHANRAJ CHAUDHARI (IN JAIL) **VERSUS** THE SUPERINTENDENT, CENTRAL PRISON,
 NAGPUR & ANOTHER)

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

Court's or Judge's orders

Shri A.M. Gedam, counsel for the petitioner.
 Mrs. N.R. Tripathi, A.P.P. for the respondents.

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

DATE : MARCH 06, 2018.

By this writ petition, the petitioner challenges the order of the D.I.G. Prisons, Nagpur, dated 18.12.2017 rejecting the application of the petitioner for grant of furlough leave.

The petitioner is convicted for the offence punishable under Section 302 of the Penal Code and he has undergone the sentence of imprisonment of nearly 3½ years. The furlough leave application of the petitioner is rejected solely on the ground that the petitioner does not perform the work in the prison and that the appeal filed by him against the judgment of his conviction is pending.

We are not impressed by either of the reasons recorded by the D.I.G. Prisons, Nagpur for rejecting the furlough leave application of the petitioner. It is not the case of the respondents that the conduct of the petitioner is not good. If the petitioner is not performing the work allotted to him diligently, that cannot be made a ground for rejecting the furlough leave or parole leave application. Also, only because an appeal filed by a prisoner against his conviction is pending, his furlough leave application cannot be rejected. Rule 4(11) of the Prisons (Bombay Furlough

and Parole) Rules, 1959 is challenged in this Court in half a dozen writ petitions and this Court has *prima-facie* found that the rule is arbitrary and unreasonable. In the said writ petitions, this Court has directed the respondents to release the petitioners on furlough leave though the appeals filed by them are pending. On parity, a similar order needs to be passed in this case also.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order is quashed and set aside. The respondents are directed to release the petitioner on furlough leave within seven days from the date on which the petitioner furnishes surety, as is required under Rule 6 of the Rules.

Order accordingly.

JUDGE

JUDGE

APTE