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IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.276/1018

(Yogesh Madhukar Chavan VS. State of Maharashtra & another)

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

Court's or Judge's order

Ms. S.D. Wankhede, Advocate for the petitioner
 Ms. N.R.Tripathi, Additional Public Prosecutor for non-applicants

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

DATED : 16th April, 2018.

Heard.

By this Writ Petition, the petitioner challenges the order of the Deputy Inspector General of Prisons, Nagpur, dated 8.3.2018, rejecting the application of the petitioner for furlough leave.

The furlough leave application of the petitioner is rejected only on the ground that the petitioner is convicted for the offences punishable under Sections 394 and 397 of the Penal Code and Rule 4(13) of the Prisons (Bombay Furlough and Parole) Rules, 1959 stipulates that a prisoner would not be entitled to furlough leave if he is involved in the offence of dacoity.

The learned counsel for the petitioner states that the judgment of the conviction and sentence of the appellant

was carried to the Hon'ble Supreme Court and the Hon'ble Supreme Court has, by the judgment reported in 2014) 4 SCC 292 convicted and sentenced the present petitioner and the other accused to suffer life imprisonment for having committed the offence punishable under Sections 302, 120B of the Penal Code. It is stated that the Hon'ble Supreme Court has not held that the petitioner and the other accused are guilty of the offences punishable under sections 394 and 397 of the Penal Code.

From the statements made by the learned counsel for the petitioner, it is clear that though the petitioner was convicted for the offences punishable under sections 302, 394 and 397 of the Penal Code by the High Court, the Hon'ble Supreme Court has convicted the petitioner only of the offences punishable under sections 302 and 120B of the Penal Code. The reason recorded by the respondents for rejecting the furlough leave application does not appear to be correct.

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 within seven days from the date on which the relative of the petitioner furnishes surety, as is required by Rule 6 of the Rules of 1959. Order accordingly.

JUDGE

JUDGE