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

**CRIMINAL WRIT PETITION NO. 8 OF 2018
WITH
CRIMINAL APPLICATION NO. 149 OF 2018**

Vijay Kisan Waghmare

..Petitioner

Vs

The State of Maharashtra

..Respondent

Through Jail

Ms. P.P. Shinde, APP for Respondent-State.

**CORAM : A.S. OKA &
A.S.GADKARI, J.J.**

DATE : 22nd January 2019.

P.C.:

1] Rule. Ms. Shinde, the learned APP waives service.

The petitioner has applied for grant of furlough under the provisions of the Prisons (Bombay Furlough And Parole) Rules, 1959. The Competent Authority on 30th June 2017 rejected the application on the ground that a Crime bearing No.83 of 2014 has been registered with Lahora Police Station against the petitioner under Section 224 of Indian Penal Code and that in the case in which he is in jail, bail has not been granted to him.

2] An appeal was preferred by the petitioner which was dismissed by the Order dated 3rd November 2017 by the Appellate Authority. Apart from referring to the offence registered in Lahora Police Station, the Appellate Court has observed that when on 4th August 2014, the petitioner was granted parole, he reported late by 69 days.

3] Our attention is invited to the Order dated 21st March 2016 passed by a Division Bench of this Court in Criminal Writ Petition No.1063 of 2016 filed by the petitioner. By the said petition, the petitioner challenged the Orders rejecting application for furlough made in the year 2015. For the reasons stated in the Judgment and Order, the Division Bench of this Court allowed the writ petition and directed the respondents to release the petitioner on furlough. The grounds which are set out in the impugned Orders are the grounds which were available in the year 2015. No other grounds are set out in the impugned Orders.

4] In view of the Judgment and Order dated 21st March 2016, the grounds set out in the impugned Orders cannot be sustained and therefore the petition must succeed.

We, accordingly, pass the following Order:-

(a) The impugned Orders dated 30th June 2017 and 3rd November

2017 are hereby set aside.

(b) We direct the Competent Authority to pass an order releasing the petitioner on furlough on compliance with the terms and conditions to be set out in the Order;

(c) Rule is made absolute in the aforesaid terms.

5] In view of Order passed in Writ Petition No.8 of 2018, Criminal Application No.149 of 2018 does not survive and the same is disposed of.

All the concerned to act on an authenticated copy of this Order.

(A.S.GADKARI, J.)

(A.S.OKA, J.)