

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 48 OF 2018**

Vicky @ Vikesh Ramesh Bacchav

.....Petitioner

Vs.

The State of Maharashtra

....Respondent.

Ms. Nasreen S.K. Ayubi for the Petitioner.

Mr. Arfan Sait, APP for the Respondent-State.

CORAM : A. S. OKA, AND**A. S. GADKARI, JJ.****DATE : 18th FEBRUARY, 2019.****P.C.:-**

Heard the learned counsel appearing for the Petitioner and the learned APP for the Respondent State.

2 The challenge in this Petition under Article 226 of the Constitution of India is to an Order passed by the Competent Authority as well as the Appellate Authority by which the Petitioner is denied grant of parole applied under the Prisons (Bombay Furlough and Parole) Rules, 1959 (for short, "*The said Rules of 1959*"). The Application is rejected on the ground that he has been convicted for the offences punishable under Section 376 (g) as well as under Sections 363 and 366 of the Indian Penal Code.

3 Perusal of the said Rules of 1959 as applicable on the date
of making an Application and the date of consideration of the
Application made by the Petitioner shows that Clause (13) of Rule 4
disqualifies a person who is convicted for the offences such as
kidnapping for ransom or rape or rape with murder. As per Rule 19
as amended by the Notification of 26th August 2016, Sub-Rule (2) of
Rule 19 lays down that all prisoners eligible for furlough shall be
eligible for regular parole. Therefore, it follows that a prisoner who is
disqualified to be released on furlough will have to be denied parole.

4 Accordingly, we find no error in the view taken by the
Authorities when the Petitioner is disqualified for grant of parole in
view of Clause (13) of Rule 4 of the Rules of 1959.

5 Writ Petition is accordingly rejected.

6 A copy of this Order be forwarded to the Petitioner through
the Jail Superintendent of Nashik-Road Central Prison.

(A.S. GADKARI, J.)

(A.S. OKA, J.)