IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 343 OF 2019

Raju Ashok Nagare .....Petitioner

Vs.

The State of Maharashtra ....Respondent.

Through Jail.
Ms. M.H. Mhatre, APP for the Respondent-State.

CORAM : A. S. OKA, AND
A. S. GADKARI, JJ.
DATE : 30th JANUARY, 2019.

ORAL JUDGMENT (PER A.S. OKA, J.):-

Heard. Rule. Learned APP waives service for the Respondent.

2 Forthwith taken up for final disposal.

3 Application made by the Petitioner for grant of furlough under the Prisons (Bombay Furlough and Parole) Rules, 1959 (for short, "*The said Rules"*) has been rejected by the Competent Authority and the Order of the rejection has been confirmed in Appeal.

4 Perusal of both the Orders shows that the rejection is on the ground incorporated under Sub-Rule (4) of Rule 4 of the said

Rules. Sub-rule (4) of Rule 4 provides that the prisoner is dis-entitled to furlough if the concerned police officer does not recommend the release on furlough on the grounds of public peace and tranquility.

5 The learned APP tendered across the bar a report dated 28th February, 2018 submitted by the Additional Superintendent of Police, Nashik (Rural), to the Jail Superintendent. There is no reference in the said police report about the existence of any ground of public peace and tranquility. Therefore, the Application made for grant of furlough could not have been rejected on the basis of disqualification contained in Sub-Rule (4) of Rule 4.

6 Hence, the Petition must succeed and we pass the following order:-

a) The impugned Orders rejecting the prayer for grant of furlough under the said Rules are hereby set aside;

b) The Competent Authority who is empowered to grant furlough shall pass an Order granting furlough to the Petitioner in accordance with law;

c) Order shall be passed as expeditiously as possible

and in any event, within a period of two weeks from the date on which this order is communicated to the Competent Authority;

d) The office of the Public Prosecutor shall communicate this Order to the Competent Authority;

e) Rule is made absolute in the above terms.

(A.S. GADKARI, J.) **(A.S. OKA, J.)**