

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4224 OF 2018

Rohit Mohanlal Dhoka ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Adv Debjyoti Talukdar for the Petitioner.

Mrs. P.P.Shinde, APP for the respondent State.

**CORAM : B.P. DHARMADHIKARI &
P.D. NAIK, JJ.**

DATE : MARCH 15, 2019

P.C.:

Petitioner convict in jail since 2011 sought furlough and it has been rejected on 22/12/2017 on the ground that his appeal against the conviction is now pending before the Hon'ble Apex Court.

2. Learned counsel for the petitioner submits that since 2011 petitioner has not been released either on parole or furlough. He submits that similar condition has not been implemented in the case of co-prisoners like Sachin Bhujbal and petitioner has been arbitrarily denied the furlough.

3. Learned APP is relying upon rule 4(11) added on 26/8/2016 to urge that obeying the stipulations therein the furlough has been rightly declined. She fairly points out that latter on this condition has been reviewed and altered but the application of the petitioner is prior to this amendment. She has also shown to us the chart of period put in by the petitioner in jail.

4. Respondent did not dispute that since 2011 the petitioner has not been released either on parole or furlough. The treatment extended to co-prisoner Sahin is also not in dispute. It appears that the police authorities have verified the guarantees being furnished and found everything satisfactory. Their report supports the request of the petitioner.

5. In this situation, as the petitioner has become entitled to furlough leave long back and that right has not been exercised till date, it is apparent that the situation prevailing today would apply and hence, adherence to clause 4(11) added on 26/8/2016 is unwarranted. The law prevailing now can be conveniently made applicable and in terms of thereof release of the petitioner can be ordered.

6. Accordingly we direct the respondents to pass appropriate orders enabling the petitioner to avail the furlough leave after

furnishing necessary bonds, undertakings and guarantees. Such order shall be passed within four weeks from today.

7. Writ petition is partly allowed and disposed of.

(P.D. NAIK, J.)

(B.P. DHARMADHIKARI, J.)