

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 49 OF 2019
WITH
CRIMINAL APPLICATION NO. 184 OF 2019
WITH
CRIMINAL APPLICATION NO. 290 OF 2019
IN
WRIT PETITION NO. 5309 OF 2018**

Assis Dominic Warwale	...Applicant
Versus	
The State of Maharashtra	...Respondent

Adv. Prosper D'souza for the petitioner.
Mr. Arfan Sait, APP for State.
Mr. P. S. Shinde, Jailor – II, Kolhapur Central Prison, Kalamba.

**CORAM: B.P. DHARMADHIKARI &
SANDEEP KASHINATH SHINDE, JJ.
DATE: 18TH OCTOBER, 2019.**

PC:

1. The applicant, who has completed the period of imprisonment u/s. 392 and 395 of IPC and completing the balance period u/s. 302 of IPC is before this Court with a prayer for furlough. Furlough has been declined to him by the DIG on 3rd April, 2018 and Appeal against it has been rejected on

13.07.2018. Contention of learned counsel for the Applicant prisoner is that he has already completed prison term for offences u/s. 392 and 395 and as such bar in Maharashtra Prison furlough and parole rules prescribed in Rule 4(2) will not operate. Other contention is in so far as NDPS case is concerned It is pending and prisoner has been released on bail in that matters.

2. Learned APP submits that bar which has become applicable in Rule 4(2) cannot cease to apply during the entire prison term. It is further submitted that, prisoner was shifted to open jail and when he was returning to jail Drugs were found with him. Therefore NDPS matter has been registered which itself is a grave dereliction hence he cannot be released on Furlough.

3. It is not in dispute that earlier he was released on Furlough, he has also obtained a degree from open university and he is pursuing MBA. However, after discovering drugs in his possession he has been shifted to regular jail. Finding of drug itself a serious aspect of which notice can be taken by this Court.

Not only this the Bar may not have been used against him as he was in open prison but after his shifting to regular jail prison and in view of conduct, we do not find that Respondent is in error in invoking the bar.

4. We therefore do not find jurisdictional error or perversity. Petition is therefore rejected.

(B. P. DHARMADHIKARI, J)

(SANDEEP KASHINATH SHINDE, J)