

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3437 OF 2021.

Nitesh S/o Suresh Patil. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

Mr.Rupesh Jaiswal for the Petitioner.
Mrs.A.S.Pai, PP for the Respondent- State

CORAM : **NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : **10 December 2021.**

P.C. :

The petition is filed on 27 September 2021 challenging the order dated 21 June 2021 rejecting the application filed on behalf of the convict for releasing him on furlough leave. Since the impugned order refers to the provision of appeal under Rule 2 of the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 1959, we made a query to the learned counsel for the Petitioner as to whether the remedy of appeal was availed of. It is, at this stage, the learned counsel for the Petitioner seeks to hand over the copy of the order passed in the appeal. Reference of filing of the appeal is not made in the petition, even though it was filed prior to the filing of this

petition. In spite of this position, a statement is made in the petition that the Petitioner has not filed any appeal and the said fact is disclosed only when the counsel was asked whether the Petitioner has filed any appeal. Such a conduct cannot be countenanced. However, considering the fact that the Petitioner is a convict in jail, by way of indulgence, we permit withdrawal of the petition with liberty to the Petitioner to file a fresh petition annexing the order passed in the appeal with necessary grounds and prayers.

2. Writ petition is accordingly disposed of as withdrawn with the aforesaid liberty.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)