

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 445 OF 2022

Raja @ Raju Maroti Shinde	...Petitioner
Versus	
State Of Maharashtra	...Respondent

YUGANDHARA
SHARAD
PATIL

Ms. Sakshee P. Chavan, appointed advocate for the Petitioner.
Ms. M.H. Mhatre , APP for the Respondent/State.

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**CORAM : SUNIL B. SHUKRE, AND
M.M.SATHAYE, JJ.**

DATE : 30th MARCH 2023

1. Rule. The learned AGP waives service for Respondent. Rule made returnable forthwith. Heard finally by consent of the parties.

2. It appears that the Petitioner has already made an application seeking furlough in terms of Rule 4(2) 4(12) of the Prisons (Bombay Furlough and Parole) Rules, 1959. The Petitioner has been convicted for an offence punishable under Section 302 r/w Section 34 of the Indian Penal Code and sentenced to suffer life imprisonment. The Petitioner has also been convicted for an offence punishable under Section 376 of the Indian Penal Code and sentenced to suffer

imprisonment for 10 years with the aid of Section 120-B of the Indian Penal Code for which he is convicted and sentenced to suffer imprisonment for a period of 5 years. The Petitioner has been further convicted for offences punishable under Sections 397 and 384 of the Indian Penal Code and terms of imprisonment awarded to him for these offences respectively are of 5 years and 1 year.

3. As per Rule 4(12) of the Prisons (Bombay Furlough and Parole) Rules, 1959, a prisoner who has been convicted for an offence of rape or for offence of murder with rape, is not entitled to get benefit of furlough. However, on the report of Superintendent of Nasik Road Central Prison, it does not become clear that aforesaid sentences awarded to the Petitioner are for crime of rape with murder. If the offence of rape was distinct from the offence of murder, perhaps, the Petitioner would have some case for seeking furlough from the prison authority. But, this aspect of the matter would have to be first examined and determined by the prison authority.

4. Accordingly, we direct the Competent authority to decide the

application of the Petitioner in accordance with law, at the earliest and in any case within two weeks from the date of the receipt of Writ of this Court.

5. Rule is made absolute in above terms. No order as to costs.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)