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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.104 OF 2023
WITH
INTERIM APPLICATION NO.2438 of 2024
in
WRIT PETITION NO.104 of 2023

Faik Mushtaq Karambelkar	]	..	Petitioner
vs.			
State of Maharashtra & Ors.	]	..	Respondents

Mr.Rupesh Jaiswal, for the Petitioner.

Mr.J.P. Yagnik, APP for the State.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ**

DATE : 22nd JULY, 2024.

P.C.

1] On 03.05.2021, the Petitioner/Convict was informed that his Application for furlough leave could not be considered and the prime reason for refusing the relief was indicated to be Rule 4(10) of the Prisons (Mumbai Furlough and Parole) Rules, 1959.

The impugned order indicate that in terms of the Government Notification dated 16.04.2010, a convict who has made an attempt to abscond or has absconded or on being released on parole or furlough has not reported within time in terms of Rule 4(10), he is not entitled be released.

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2] Since we have already taken a view in identical matters, based on the precedents of this Court, clarifying the position that there cannot be an absolute bar in non-consideration of the parole or furlough leave of a Prisoner/convict in terms of Rule 4(10), we deem it appropriate to quash and set aside the interim order.

3] Since the order is passed in the year 2021 and we are not aware whether the Petitioner has availed any furlough leave thereafter and also about his conduct in the prison, we permit the Petitioner to make a fresh Application to the Competent Authority, which shall be considered within a period of two weeks from its receipt, with a clarification that the embargo created under Rule 4(10), shall not come in his way, in availing furlough or even parole leave, if he is entitled for the same.

Writ Petition is disposed off, in above terms.

The pending Interim Applications in the Writ Petition are also disposed off.

[MANJUSHA DESHPANDE, J.]

[BHARATI DANGRE, J.]