

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

CRIMINAL WRIT PETITION NO.2595 OF 2024

Pratap s/o. Tukaram Godse,

.... Petitioner

Versus

The State of Maharashtra and Ors.

.... Respondents

.....

Mr.Rupesh Jaiswal, Advocate for the Petitioner.

Mr.H. S. Venegaonkar, Spl. P.P. a/w. Ms.S.S. Kaushik, APP for Respondent – State.

Ms.Suvarna J. Chorge, Jailor Gr. II, Nashik Central Jail, present.

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

DATED : 1st JULY 2024.

P.C. :

1 This is one more case when without adherence to the law laid down by the Full Bench of Gujarat High Court, and the decision passed by this Court relying upon Gujarat High Court interpreting Section 4(10) of the The Prisons (Bombay Furlough and Parole) Rules, 1959 (“ the Furlough and Parole Rules”, for short), merely on the ground that the prisoner had surrendered by a delay of 602 days and was required to be arrested after delay of 602 days when he was released on parole leave on 10th April, 2013, he has been denied the benefit of furlough leave.

2 We are repeatedly noticing that despite a view having been taken that Rule 4(10) of the Furlough and Parole Rules, shall not operate as a permanent bar, and it having been particularly interpreting by the Gujarat High Court in the case of *Bhikhabai Devshi Vs. State of Gujarat*¹, we are failed to see that the Authorities do not butcher themselves from repeatedly relying upon 4(10) of the Furlough and Parole Rules. We are constantly reminding the public prosecutors of the law laid down by this Court and we are being informed that despite the law being conveyed to the concerned Authorities, such orders are repeatedly passed. We deem it appropriate that let the public prosecutor Mr.Venegaonkar compile all the relevant judgment on the said point and personally have a meeting with the incharge Inspector General of Prisoners, Maharashtra State, who shall circulate the decisions in the form of the authoritative pronouncement to all its subordinates as it must be understood that the law laid down by the highest Court in the State ought to be followed and it binds each and everyone. This order be communicated to the Inspector General of Prisons, Maharashtra State by the learned public prosecutor. In the present case, since we have noticed that the impugned order cannot be sustained, the same is quashed and set aside if the petitioner/ the convict satisfy with the conditions of furlough, by ignoring the bar under Rule 4 (10) of the Furlough and Parole Rules, he shall be released on furlough in terms of the application dated 11th November, 2023.

1 1986 CJ (Guj) 39

We make make it clear that if there no is legal impediment in availing the furlough leave, he shall be released forthwith.

For compliance of our instruction, re-notify to 15th July, 2024.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)