

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.3875 OF 2016

Moh. Badshah Mod.Esmail Ansari ... **Petitioner**

V/s.

The State of Maharashtra ... **Respondent**

.....

Ms.Rohini Dandekar, Advocate appointed for the Petitioner.

Mr.Arfan Sait, APP for the Respondent/State.

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**CORAM : SMT.V.K.TAHILRAMANI &
A. M. BADAR JJ.**

DATED : 7th DECEMBER 2016.

ORAL JUDGMENT : (Per V. K. TAHILRAMANI J.)

1 Heard both sides.

2 The petitioner preferred an application for parole on 25/12/2015 on the ground of illness of wife. The said application was rejected by order dated 22/03/2016. Appeal preferred against the said order was dismissed by order dated 26/07/2016. Hence this petition.

3 The order dated 26/07/2016 shows that the application of the petitioner for parole was rejected on the

ground that illness of his 'mother' is not serious and she is only advised to rest and no operation is proposed. It was also rejected on the ground that three offences of house breaking are registered against the petitioner. As far as the first ground is concerned, the petitioner has sought parole on the ground of illness of his wife and not mother. Moreover, the medical certificate clearly shows that the wife of the petitioner has been advised hysterectomy operation as early as possible. In fact, the report of the Doctor of Nashik Road Central Prison also shows that Hasina (wife of petitioner) has been advised hysterectomy i.e. surgery of the uterus. Thus it cannot be said that she was advised only rest and no operation is proposed. Thus it seen that the main ground for rejection is a totally erroneous ground.

4 In this view of the above, the orders dated 22/03/2016 and 26/07/2016 are set aside. The authority shall consider the application of the petitioner for parole afresh. The said application to be decided as expeditiously as possible.

5 Rule is made absolute in above terms.

6 Office to communicate this order to the petitioner,
who is in Nashik Road Central Prison.

(A. M. BADAR J.) (SMT. V. K. TAHILRAMANI J.)