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

CRIMINAL WRIT PETITION NO.64 OF 2017

Mustaque Moosa Tarani,
aged about 44 years,
R/o:66/68, Kambekar Street,
Room No.23, 3rd Floor,
Aisha Manzil,
Mumbai - 400 043.
(At present lodged at Yerwada
Central Prison, Pune)

...Petitioner

Versus

1. The State of Maharashtra
2. The Superintendent,
Yerwada Central Prison,
Pune.

...Respondents

Ms.Aisha Mohammed Zubair Ansari, for the Petitioner.

Mr. H. J. Dedia, A.P.P for the Respondent-State

**CORAM : SMT.V.K.TAHILRAMANI &
REVATI MOHITE DERE, JJ.**

DATE : 19th JANUARY, 2017

ORAL JUDGMENT (Per Smt. V. K. Tahiramani, J.) :

1. Heard both sides.

2. Rule. By consent, rule is made returnable forthwith and the matter is heard finally.

3. The case of the petitioner is that his real brother-Hanif Moosa Tarani expired in Mumbai on 28th December, 2016. The petitioner then preferred an application to be released on death parole. The case of the petitioner is that the Competent Authority may take some time to decide his application for being released on death parole, as a result of which he will not be able to attend the rituals/rites relating to the death of his brother.

4. Learned APP states that the application of the petitioner has been decided by order dated 13th January, 2017. The said order states that on the 40th day, the petitioner will be taken under police escort to attend the rites relating to the 40th day ceremony. Learned APP submitted that the petitioner was earlier sentenced to death and the sentence of death had been converted to life by the Supreme Court and hence it was decided not to release the petitioner on death parole for a period of 7 days. But, instead the petitioner would be taken under police

escort to attend the 40th day ceremony.

5. Learned Counsel for the petitioner has placed reliance on the order dated 15th November, 2014 passed in the case of co-accused - Mohammad Soyab Kasam Ghansar, who was similarly situated, wherein he was released on parole by the Competent Authority for a period of 30 days. Hence, she submitted that the petitioner can be granted death parole for a period of 30 days as envisaged under Rule 19 of The Prisons (Bombay Furlough and Parole) Rules, 1959.

6. Learned APP has pointed out the notification dated 26th August, 2016. He states that the petitioner is seeking release on death parole and Rule 19 has been amended pursuant to notification dated 26th August, 2016, which states that emergency parole can be granted in case of death of grand parents/parents/spouse/children and siblings. It is further stated that emergency parole may be granted for a maximum period of 7 days.

7. Looking to the fact that the co-accused – Mohammad Soyab Kasam Ghansar has been released on parole and looking to the fact that in case of death, parole is granted for a period of 7 days, we are inclined to grant the prayer of the petitioner to be released on parole. On compliance of the terms and conditions as set out by the Competent Authority, the petitioner be released on death parole for a period of 7 days, starting from 31st January, 2017.

8. Rule is made absolute in the above terms.

(REVATI MOHITE DERE, J.)

(V.K.TAHILRAMANI, J.)