

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

**WRIT PETITION NO. 4509 OF 2017
WITH
WRIT PETITION NO. 4515 OF 2017**

Nilesh Piyush Shah
Versus

....Petitioner

Jayadeep Mahendra Parmar & Ors.

....Respondents

Mr. Abhishek Deshmukh with Balvendra Singh for the petitioner.
Mr. H.J. Dedhia, APP for the State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 09th NOVEMBER, 2017***

P.C. :

1. Not on board. Upon mentioning, taken on board.
2. During the morning session, learned counsel for the petitioner and respondents had brought to my notice that despite the order dated 07th November, 2017, Mr. Sadanand Gaikwad, Superintendent of Taloja Central Prison is refusing to release the applicant from the jail. Mr. H.J. Dedhia, learned APP was instructed to bring the order dated 07th November, 2017 to the notice of the Superintendent of Jail and to direct him to comply with the said order and to release the applicant from the jail in compliance with the order dated 07th November, 2017.

The learned APP submitted that Mr. Bhoite, Senior Jailor (Judicial Section) has stated that the order is vague and that the order does not contain any directions to him to release the applicant from the jail. Learned APP further submits that the Senior Jailor (Judicial Section) had also questioned his authority to give such instructions on the ground that he had not appeared as an APP in the said petition.

3. Paragraph 6(ii) of the order dated 07th November, 2017 clearly states that “the applicant is ordered to be released from jail, if his presence is not required in any other case”. The contention that the order is vague is devoid of merits. It is to be noted that the petitioner in this petition has already been acquitted of the offence, in view of which, the learned APP was instructed to direct the Superintendent of Police to release the petitioner – Mr. Nilesh Piyush Shah.

4. It appears that Mr. Bhoite, Senior Jailor (Judicial Section) has not complied with the condition of the order despite clear directions in the order as well as through the learned APP.

5. Mr. Bhoite, Senior Jailor (Judicial Section) is directed to remain present before this Court on Monday i.e. 13th November, 2017 at 11: 00 am. In the meantime, Mr. Sadanand Gaikwad, Superintendent of Talaja Central Prison is directed to release the petitioner – Mr. Nilesh Piyush Shah forthwith. Mr. H.J. Dedhia, learned APP is directed to forward a copy of this order to Mr. Sadanand Gaikwad, Superintendent of Talaja Central Prison and Mr. Bhoite, Senior Jailor (Judicial Section).

6. To report compliance, stand over to 13th November, 2017.

7. All concerned to act on an authenticated copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)