

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1546 OF 2018

IN

CRIMINAL APPEAL NO.538 OF 2018

Prashant Ekanath Ghorpade ... **Applicant**

V/s.

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

Mr.Krupali Hiren Rajani for the applicant.

Mr.S.V. Gavand, APP for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 19th SEPTEMBER 2018.

P.C. :

1. This is an application for temporary bail for a period of six months. The applicant / accused is convicted of the offence punishable under Section 376 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for seven years apart from payment of fine of Rs.10,000/- and default sentence of simple imprisonment for six months.

2. The application for regular bail moved by the applicant is already been rejected by this Court.

3. Heard the learned Counsel for the applicant/accused. She argued that wife of the applicant delivered a premature baby on 18th August, 2018 and that baby was on ventilator. Though, the application is moved for enlarging the applicant on bail in order to take care of his new born baby, with passage of time, the baby born to the applicant has expired and therefore for attending last rites of his new born baby, the applicant deserves to be released on bail for a short period.

4. The learned Additional Public Prosecutor opposed the application by contending that the applicant shall be sent to his native place under police escort for undertaking last rites of the new born baby.

5. I have carefully considered the rival submissions and also perused the documents annexed to the application so also the death certificate of the new born baby of the applicant. The applicant was on bail during pendency of the appeal and he has not misused his

liberty. Undisputedly, the applicant has to undertake last rites of his new born baby who died unfortunately soon after his birth. Therefore, I am of the considered opinion that liberty can be restored to the applicant for a short period in order to enable him to undertake last rites of his new born baby and hence the order;

:: ORDER ::

- (i) The application is allowed.
- (ii) The applicant/accused is directed to be released on temporary bail for a period of two months on his executing P.R. Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount in order to enable him to undertake last rites of his new born baby. After expiry of the period of this temporary bail, the applicant should surrender himself before the concerned prison authorities.
- (iii) As condition of this order, the applicant should mark his attendance to Wai Police Station, Satara on 3rd October, 2018, 23rd October, 2018 and 14th November, 2018 between 11.00 am to 1.00 pm.
- (iv) The application is, accordingly, disposed of.

6. Parties to act upon authenticated copy of this order

(A.M.BADAR J.)