

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

CRIMINAL WRIT PETITION NO. 1352 OF 2018

Pyarelal Shridhar Keer @ Pahalwan ...Petitioners
Versus
The State of Maharashtra & Ors. ...Respondents

Mrs. A. M. Z. Ansari with Mrs. Nasreen S. K. Ayubi for Petitioners.
Mrs. G. P. Mulekar – APP for Respondents – State.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 18 APRIL 2018

ORAL JUDGMENT(PER: SMT. V.K.TAHILRAMANI, Acting C.J)

1] Leave to amend. Amendment to be carried out forthwith.

2] Heard both sides. Rule. Rule is made returnable forthwith.

3] By this Court's order dated 2nd November 2017, the petitioner was ordered to be released on parole for a period of 30 days on the usual terms and conditions as set out by the competent authority. Pursuant thereto, the competent authority passed an order dated 28th November 2017 wherein the petitioner was to be released on parole for 30

days on certain terms and conditions.

4] The learned counsel for the petitioner states that the communication dated 26th December 2017 was received by Shri Manesh Ulhas Khandare, who was the proposed surety of the petitioner that he has to comply with necessary conditions including submitting documents pertaining to immovable property. However as the surety Shri Manesh Khandare stated that he is unable to furnish any documents relating to immovable property, he was asked to submit the same by 27th December 2017, otherwise the surety will not be accepted. By communication dated 17th January 2018, the petitioner was informed that he was given extension of 30 days to comply with the condition of furnishing surety.

5] On perusing the order dated 28th November 2017 wherein conditions were imposed on the petitioner for releasing on parole, we do not find any condition therein that the surety of the petitioner should furnish documents relating to immovable property.

6] The learned APP, however relied on circular dated 16th

December 2008 which states that before the surety is accepted, the surety should be asked to furnish a surety bond prior to which his financial capacity is to be evaluated. The circular further states that the financial capacity is to be evaluated on the basis of documents like 7/12 extract or title documents of the residential property of the surety or salary certificate or income tax returns. Thus from this circular also it is clear that it is not necessary that the surety has to compulsorily furnish documents relating to immovable property owned by the surety, but to show his financial capacity to stand as a surety, he can furnish any one of the documents mentioned above. We may also state here that the list of documents is only illustrative and not exhaustive.

7] In this view of the matter, it is clear that the authorities cannot insist on the surety furnishing documents relating to the immovable property owned by him and if he can produce any one of the above documents, it would be sufficient.

8] In this view of the matter, the surety can produce

even his salary certificate or income tax returns and if they are found sufficient to show financial capacity to stand as surety in the sum of Rs.25,000/-, these documents may be accepted. The petitioner is granted time till 15th June 2018 to comply with the formalities pertaining to his release on parole.

9] Rule is made absolute in above terms.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA