

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.549 OF 2018
IN
CRIMINAL APPEAL NO.643 OF 2016

Vivek Buddhinath Mishra
versus

Applicant

The State of Maharashtra

Respondent

Mr.Akshata B. Desai h/for Mr.Nitin Sejpal for applicant.
Ms.M.H.Mhatre, Additional Public Prosecutor, for State.

CORAM : S.C.DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.

DATE : 2nd May 2018

PC :

1. This is an application for temporary release of the applicant. He says that he be released for a period of fifteen days so as to enable him to attend the marriage of his real sister Ms.Pratibha Buddhinath Mishra. The marriage is stated to be solemnized on 4th May 2018 in the State of Uttar Pradesh and particularly a village in district Pratapgarh.

2. On the earlier two occasions we had granted time to learned APP to take instructions. One of the conditions on which release was possible was to place a police escort so that after marriage is solemnized, the applicant returns to the prison. This is a normal and ordinary restriction which the Court imposes on such applicant, who is a convict and detained in Nashik Road Central Prison. If he has to be temporarily released and for being able to attend the marriage,

that would be possible by train journey from Nashik Road to the village or the nearest railway station in Uttar Pradesh. For such release, if such a condition is not imposed, it is quite likely that the convict may not return to the prison. There are cases where the accused having temporarily released, have either jumped the bail or parole and did not return to the prison. In the circumstances we called upon the applicant to comply with the condition of depositing expenses of police escort who will travel with him from Nashik Road to the village of applicant in Pratapgarh and return back.

3. The Nashik Road Central Prison through its Superintendent has informed that the applicant was approached and spoken to with regard to imposition of such a condition. The applicant flatly refused to bear such expenses of police escort. In the circumstances we do not think that we should be releasing even temporarily the applicant, for, there is no guarantee that he will return to the prison and to serve out the remaining sentence.

4. In the circumstances taking a copy of the communication addressed to learned APP by the Superintendent of Nashik Road Central Prison dated 27th April 2018 on record and mark it "X" for identification, we proceed to dismiss this application. Ordered accordingly.

(PRAKASH D. NAIK, J.)

(S.C.DHARMADHIKARI, J.)

MST