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

WRIT PETITION NO.5665 OF 2018

Zuber Mohd. Kasam Shaikh ... Petitioner

Vs

The State of Maharashtra & Ors. ... Respondents

...

Mr. N.N.Gawankar I/by Mr. Manas N. Gawankar for the
Petitioner.

Mrs. P.P.Shinde, APP for the Respondent-State.

CORAM : A.S.OKA &

SANDEEP K. SHINDE JJ.

DATE : 17 DECEMBER, 2018

P.C. :

Not on board. Taken on board.

Today, the learned APP has produced for perusal of the Court, a copy of the order dated 17th December, 2018 passed by the Deputy Inspector- General (Prisons) Central Zone, Aurangabad. The Petitioner applied for Emergency parole under Rule 19(1)(A) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959 as amended by the amendment Rules of 2018 published under the Notification dated 16th April, 2018. The emergency parole was sought by the Petitioner with a view to attend his real brother's

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marriage which is to be solemnised on 23rd December, 2018. One of the grounds set out in the impugned order is of the adverse police report. The second ground is that the Petitioner has been convicted for the offence punishable under Section 302 of the IPC as well as under the MCOC Act. The third ground is that he has been convicted for the offence punishable under the Passport Act. We have perused the police report.

2 Considering the extreme urgency, we permit the Petitioner to amend the Petition. We have heard parties on the prayer for quashing the order dated 17th December, 2018.

3 We are of the view that grounds set out in the impugned order dated 17th December, 2018 may not be available for rejecting the application for emergency parole. Apart from the fact that the police report is based on mere apprehension, Emergency parole could have been granted under a police escort.

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4 The learned APP on instructions states that Emergency parole under police escort can be granted to the Petitioner provided the Petitioner is willing to bear the expenses of providing police escort. The learned counsel appearing for the Petitioner states that the Petitioner is ready and willing to pay necessary charges.

5 Accordingly, we dispose of the Petition by passing the following order:

(I) The impugned order dated 17th December, 2018 is hereby quashed and set aside;

(II) In the light of discussion in the judgment , the Deputy Inspector General of Police, Central Zone, Aurangabad shall immediately re-consider the application made by the Petitioner by granting him emergency parole under the Police escort subject to other terms and conditions which may be fixed by the said authority in accordance with law;

(III) The Petition is disposed in the above terms.

(IV) All concerned to act upon an authenticated copy of this order.

(V) The learned APP to telephonically communicate this order to the Deputy Inspector

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General of Police, Central Zone, Aurangabad instructing
the officer to act upon the information supplied by her.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)