

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

CRIMINAL WRIT PETITION NO.2366 OF 2019

Nishant @ Munna Nandkumar Mane	Petitioner
vs.	
The State of Maharashtra and ors.	Respondents

Adv. Harjeet Kaur for the Petitioner.
Ms. M.H. Mhatre, APP. for the State.

**CORAM : B.P.DHARMADHIKARI &
SMT. SWAPNA S. JOSHI, JJ.
DATE : 18th June, 2019**

PC :

1. After hearing respective counsel on 11.6.2019 matter came to be adjourned to today to enable the learned APP to obtain instructions on submission that after refusal by earlier guarantor, new guarantor/surety was submitted and Crime No.20 of 2013 in Laxmipuri Police Station is not registered against the petitioner. Today learned APP upon instructions states that Crime No.20 of 2013 at Laxmipuri Police Station is not against the petitioner. She is seeking time to obtain other details.

2. We find that in appellate order dated 7.2.2019 maintaining order of lower authority rejecting furlough leave, apart from mention of Crime No.20 of 2013 there is also reference of refusal of surety. The petitioner has pointed out to us that on 19.9.2018 he submitted another surety. This fact obviously has not been looked into.

3. Nominal Roll of prisoner shows that he is under going punishment as per the Judgment and Order dated 23.4.2018 delivered by Additional Sessions Court No.2 at Kolhapur in Sessions Case No.63 of 2014 and this arose out of offence/ Crime No.319 of 2013 with Kolhapur Police Station. However, this offence is also shown as pending in the impugned order.

4. The impugned order therefore suffers from non application of mind. It is accordingly set aside.

5. We also quash and set side the order of competent authority dated 14.11.2018.

6. Application of the petitioner for furlough is restored back to the file of competent authority. Competent authority shall in the light of observations made supra, take a fresh decision on the said request within six weeks from the date of communication of this order.

7. Petition is thus allowed and accordingly disposed off.

(SMT. SWAPNA S. JOSHI, J.)

(B.P.DHARMADHIKARI, J.)