

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 5687 OF 2018**

Shivaji Arjun Chavan

.....Petitioner

Vs.

The State of Maharashtra & Ors.

....Respondents.

None for the Petitioner.

Ms. M.H. Mhatre, APP for the Respondent-State.

CORAM : A. S. OKA, AND
A. S. GADKARI, JJ.
DATE : 4th JANUARY, 2019.

P.C.:-

This Petition is received through Jail.

2 The Petitioner had applied for grant of parole under Rule 19 of The Prisons (Bombay Furlough and Parole) Rules, 1959 (for short, "*The said Rules of 1959*"), on account of ailment of his wife. The Competent Authority rejected the said Application. Against which, an Appeal was preferred by the Petitioner.

3 The said Appeal is rejected on two grounds. One ground is that, the Petitioner has been convicted for the offence punishable under Sections 396 and 397 of the Indian Penal Code. We are not impressed by the said ground.

4 The second ground is that, the Medical Certificate of the wife submitted by the Petitioner is a stale certificate inasmuch as it was received in May, 2017. Therefore, the Appellate Authority came to the conclusion that, on the basis of such a stale certificate, it cannot come to any conclusion about the seriousness of the illness of the Petitioner's wife.

5 In view of this observation of the Appellate Authority and in view of the fact that the certificate relied upon by the Petitioner is of 22nd May, 2017, we dispose of the present Petition by permitting the Petitioner to make a fresh Application for grant of parole by producing a fresh certificate showing the health condition of his wife. If such an Application is made, the same shall be decided in accordance with law as expeditiously as possible, without being influenced by the impugned Orders.

6 Writ Petition is disposed of, with the above directions.

7 A copy of this Order shall be forwarded to the Petitioner through the Superintendent of Kolhapur Central Prison, Kolhapur.

(A.S. GADKARI, J.)

(A.S. OKA, J.)