

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

**WRIT PETITION NO.2319 OF 2019**

Futurmal Kapurji Borana

...Petitioner

vs.

The State of Maharashtra and Ors.

...Respondents

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Mr. Farhana Shah for the Petitioner.

Mr. Arfan Sait, APP for the State.

Mr. Prashant M. Nagawade, Jailor, Nashik Road Central Prison.

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**CORAM : B. P. DHARMADHIKARI &  
MRS. SWAPNA S. JOSHI, JJ.  
DATE : 16/07/2019.**

**P.C.:**

. Petitioner convict under sections 395, 396, 449 of IPC sought parole on 24/5/2018 on the ground of ill-health of mother. Request has been turned down by Divisional Commissioner, Nashik on 11/10/2018 and appeal against the said order is rejected by the State Government on 6/2/2019.

2. Learned counsel for the petitioner submits that the provision which bars release of convict under sections 395, 396 of IPC has been added on 16/4/2018 and before that the petitioner was released thrice i.e. in the year 2005, 2007 and 2013 when he reported back late. She submits that he has been regularly released and only on three occasions he has reported late. Though in 2007 he has reported back after 203 days, it was voluntarily and therefore in 2013 he was again released, he has reported back late by 4 days voluntarily. Submission is in this situation bar cannot apply.

3. Learned APP relies upon three instances and statutory bar. He

also submits that certificate supporting ill-health of mother is dated 26/3/2018 and, therefore cannot be looked into now.

4. The entire personal record of petitioner is not before the Court, so various dates and periods of his release after his conviction are not on record. However, the impugned order shows that in the year 2005, 2007 and 2013 he has reported back voluntarily after delay of 7 days, 203 days and 4 days respectively.

5. Application seeking leave was moved by the present petitioner on 24/5/2018. In the application he has mentioned that his mother is unwell and his father is ready and willing to stand as surety.

6. As pointed out by learned APP certificate in support of ill-health is now about 16 months old. Certificate only shows pain in chest of mother.

7. In this situation, we are not inclined to intervene in the present matter.

8. However, we grant the petitioner leave to apply again with appropriate certificate and documents. If such application is moved on account of ill-health of mother within 4 weeks from today, the Authority shall pass suitable orders in accordance with law within a period of next 6 weeks.

9. With this direction the petition is disposed of. Parties to act on authenticated copy of this order.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)