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

**WRIT PETITION NO.2563 OF 2019**

Raju Bhimappa Mali ...Petitioner

vs.

The State of Maharashtra and Ors. ...Respondents

---

Mr.Shashikant Chandak for the Petitioner.
Ms. M.H. Mhatre, APP for the Respondent/State.

---

**CORAM : B. P. DHARMADHIKARI &**
**MRS. SWAPNA S. JOSHI, JJ.**
**DATE : 22/07/2019.**

**P.C.:**

. Heard learned counsel (appointed) for the petitioner and learned APP. Perused the impugned oder dated 3/1/2009 refusing furlough leave on the ground that murder has been committed for extortion and the petitioner is guilty of offence under sections 302 r/w 34, 387 r/w 120-B and 341 of IPC.

2. Learned APP pointed out that apart from apprehension of causing breach of peace, vide Crime No.134/2009, offence under sections 326, 323, 506 r/w 34 of IPC are also registered against the petitioner.

3. After hearing respective counsel we find that the petitioner is undergoing imprisonment because of his conviction on 24/11/2017. Crime No.134/2009 mentioned supra is prior to it.

4. It appears that the petitioner was given bail in same crime.

Further developments in RCC 134/2009 are not on record.

5. The apprehension of breach of peace is not based upon any material on record. The impugned order as also the appellate order does not show any previous conduct in support of such impression. It appears that surety submitted by the petitioner is found to be proper. The petitioner has not been released earlier and he has not paid fine amount of Rs.25,500/-.

6. In this situation, we find that the impugned order is passed without application of mind. We accordingly quash and set aside the impugned order and direct Authority i.e. Deputy I.G. (prison), West Region, Pune to pass fresh order after considering the entire material and final outcome of RCC No.134/2009. The order shall be passed within a period of 6 weeks from the date of communication of this order to the said authority. The petition is accordingly allowed and disposed of.

**(MRS. SWAPNA S. JOSHI, J.)** **(B. P. DHARMADHIKARI, J.)**