

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

WRIT PETITION NO.2797 OF 2018

Santosh Namdeo Bhukan ... Petitioner
V/s.
The Divisional Commissioner & Ors. ... Respondents

Mr. Sachin H. Deokar for the Petitioner
Mr. H. J. Dedhia, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI AND
SMT.SWAPNA S. JOSHI, JJ.
DATE : 25/6/2019.**

P.C.:

. Heard learned counsel (appointed) for the petitioner and learned APP for the State. Parole sought for in November 2017 for surgery of mother was rejected by the Competent Authority on 18/1/2018. Appeal preferred by State Government has already been rejected on 28/1/2019. Copy of the Appellate order is not placed on record.

2. However, one of the grounds for rejection is the petitioner has been convicted under section 364 (A) of IPC and therefore under Rule 4(13) he is not eligible for parole. It is admitted position here that the petitioner is not a convict under section 364(A) of IPC. Thus non application of mind is apparent. However, need of surgery had arisen sometime in the year 2017. Period of more than 1½ years has expired thereafter. It is not certain that need survives even now.

3. In this situation, we direct the petitioner to apply fresh in accordance with law with necessary documents and with direction to respondent to consider that application expeditiously if it is for surgery of mother, petition is disposed of. Order be communicated to the prisoner in jail.

(SMT. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)