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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3691 OF 2019

Sadapal Hariram Yadav	... Petitioner
Versus	
The State of Maharashtra	... Respondent

Mr. Kuldeep S. Patil for the Petitioner.
Mr. J.P. Yagnik, APP for the Respondent.

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.

DATE : 23rd JULY, 2019.

P.C. :

1 Heard respective counsel. Furlough leave has been declined on the ground that surety is not competent since he is acquitted accused who had threatened witness Shri Ramchandra.

2 Counsel for petitioner states that against acquittal of brother of present petitioner who agreed to stand surety, no appeal was preferred by the State Government. He further submits that the alleged story of threat is incorrect and in any case, cannot be used to the prejudice of present petition.

3 The learned APP points out that surety offered was co-accused in same crime in which the petitioner is now in jail and he had threatened witness Shri Ramchandra, as such, after release on furlough leave danger to safety of Shri Ramchandra cannot be overlooked.

4 The petitioner is in jail since the date of incident and he has been convicted in Sessions Case No.571 of 2014 on 23rd March 2018. The surety offered is of real brother who has been acquitted in the matter by trial Court. That acquittal has attained finality.

5 The threats allegedly given by acquitted accused cannot be used against the present petitioner.

6 In any case, sanctioning authority can impose proper terms and conditions to see that petitioner after his release keeps away from such witnesses. In this situation, we quash and set aside impugned order dated 15th November 2018 and appellate order dated 1st April 2019.

7 We direct the sanctioning authority to release the petitioner on furlough leave after imposing suitable terms and conditions within four weeks after receipt of copy of this order.

(MRS. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)