

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3952 OF 2019***

Santosh Dashrath Sonawane @ Khandya ... Petitioner

Vs

The Deputy Inspector General (Prison) & Anr. ... Respondents

Ms. Savita A. Prabhune, Advocate for the Petitioner.

Mr. Arfan Sait, Learned APP for the State.

Mr. P.M. Nagawade, Jailor, Ground -2, Nashik Jail.

CORAM : B.P.DHARMADHIKARI &

SANDEEP K. SHINDE, JJ

DATE : AUGUST 28th, 2019

P.C.:

1. Heard learned counsel (appointed) and Learned APP for State. Request for furlough was turned down on 01.10.2018 and appeal against it was also rejected. This rejection formed subject matter of Writ Petition No. 957 of 2019 wherein Court observed that order of Competent Authority invoked Rule 4(1) of the Prisons (Bombay Furlough and Parole), Rules 1959, while Appellate Authority, in addition also applied Rule 4(20), This Court therefore on 04.03.2019 allowed that Writ Petition and placed the matter back

before the Appellate Authority for passing orders afresh. Order passed thereafter on 22.03.2019 has given rise to the present petition.

2. In order dated 22.03.2019, Appellate Authority has not mentioned Rule 4(20) and restricted itself to Rule 4(1). Finding is Petitioner is a habitual criminal. The facts to support the conclusion that the petitioner is a habitual criminal are not apparent anywhere. Neither the first order dated 01.10.2018, nor the Appellate order dated 22.03.2019 mention those facts.

3. Even the nominal rule shown to this Court contains remark that petitioner is a habitual criminal. Why he is a habitual criminal and what is the nature of offence/ offences committed by him is however not discussed anywhere.

4. We therefore find that purpose of placing the matter back before the Appellate Authority has been defeated.

5. Had the petitioner been guilty or involved in some serious crime, it would have definitely been mentioned in the order of rejection. Its non mention speaks for itself. We therefore quash and

set aside the impugned order dated 22.03.2019, as also the order of Competent Authority dated 01.10.2018. We direct the Sanctioning Authority to pass appropriate orders, imposing necessary conditions, take necessary surety bonds from the petitioner and to release him on furlough within six weeks from the date of communication of this order.

6. Petition is partly allowed.

7. This order be communicated to the prisoner in jail.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)