

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

WRIT PETITION NO. 173 OF 2020

Shaikib Shahajan Shaikh

...Petitioner

Vs.

The State of Maharashtra and Anr.

...Respondents

Ms. Sandhya Mailagir i/b Mr. Anil D. Joshi for the petitioner.
Smt. S.D.Shinde, APP for the State.

**CORAM : B. P DHARMADHIKARI &
N.R.BORKAR, JJ.**

DATE : 14TH JANUARY, 2020.

P.C.:

Heard finally.

2. Submissions of Learned Counsel for petitioner is, he has been sentenced on 5th May, 2017 and therefore, modification brought about on 16th April, 2018 is not relevant. As the Medical Certificate and ailment is not found to be incorrect, parole ought to have been allowed.

3. Learned APP, on the other hand, submits that even the rules prior to modification in April, 2018 did not entitle petitioner to parole leave as is convict under the Protection of Children from Sexual

Offences Act, 2012. She further points out from Medical Certificate that their except for describing general health condition of mother of prisoner, details like scheduled date of surgery, place of surgery are not given. She contends that ailment if required surgery immediately may have already been attended to and cause for seeking parole may not be available now.

4. We have considered the situation. The certificate dated 23rd March, 2019 issued by Dr. Ashok Jadhav mentions perforation in heart. It is also pointed out that patient is deaf and dumb since childhood. However, certificate does not show scheduled date of operation or place of surgery.

5. The petitioner has questioned order of Divisional Commissioner dated 31st July, 2019 refusing parole in present matter.

6. In this situation, we find that interest of justice can be met with by keeping all contentions open and by giving leave to petitioner to move application afresh, if need still subsists.

7. If such application with proper medical documents is

moved by petitioner within four weeks from today, Competent Authority shall look into it within four weeks thereafter. With these directions, we disposed of the petition.

8. Parties to act upon authenticated copy of this order.

(N.R.BORKAR, J.)

(B. P. DHARMADHIKARI, J.)