

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 6230 OF 2019

Mohd. Ikbal Amirjan Shaikh ... Petitioner

Versus

The State of Maharashtra ... Respondent

Mr. Aditya Gore for the petitioner.

Dr. F.R. Shaikh, APP for the respondent State.

CORAM : B.P. DHARMADHIKARI &
NITIN R. BORKAR, JJ.
DATE : FEBRUARY 05, 2020

P.C.:

Furlough leave sought by the petitioner has been rejected by the competent authority on 9/2/2019 and the appellate authority has maintained it on 2/5/2019. The reasons are adverse police report, surety offered was found not competent and lastly the surety was found not residing at the address disclosed.

2. This is the first occasion on which the prisoner would be released and therefore, will be out of prison. As such the findings about the breach of peace or creation of law and order problem appears to be hypothetical. Son of the prisoner who has offered to be surety is aged about 27 years and it appears that only because of his relationship, he is found not competent and

therefore, unable to control the movements of the prisoner. The reasons cannot be accepted.

3. Lastly the authority (in appeal) has recorded that the said surety is not residing at the address disclosed. the petitioner has produced before this court some documents to show that the son resides at the very same address. We cannot verify said documents at this stage.

4. In this situation, we are inclined to remand the matter back before the first authority for fresh consideration in accordance with law keeping in mind the observations made supra. The Authority shall verify the documents to find out whether the son resides at the address mentioned by the son and also for that purpose, may give suitable opportunity to the prisoner.

5. The fresh orders on his request for furlough shall be passed within four weeks after receipt of copy of this order.

6. Petition is accordingly partly allowed and disposed of.

7. Order be served upon the prisoner in jail.

(NITIN R. BORKAR, J.)

(B.P. DHARMADHIKARI, J.)