

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1223 OF 2021
IN
CRIMINAL APPEAL NO. 784 OF 2019

Malikaarjun Siddha Balshankar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Tejas Hilage i/by Surel S. Shah for the Applicant.

Mrs. M.M. Deshmukh, APP, for the Respondent – State.

CORAM : PRASANNA B. VARALE &
SURENDRA.P. TAVADE, JJ.

DATE : APRIL 29, 2021.

PER COURT :

1. In the present application applicant prayed for his enlargement on bail pending Appeal.

2. Learned Counsel for the Applicant fairly admitted this is the second occasion whereby the applicant is approaching this Court with the similar prayer for his enlargement on bail. By inviting our attention to the order dated 22.07.2019, placed on record at Exhibit – A, learned Counsel submitted that the Division Bench of this Court was not inclined to release the applicant on bail as such, the application was rejected.

Being aggrieved by the said order, the applicant approached the Hon'ble the Apex Court and by order dated 06.01.2020 the Hon'ble the Apex Court was pleased to dismiss the Special Leave Petition with liberty as withdrawn. Learned Counsel for the Applicant further submitted that on a peculiar circumstance, the applicant is approaching this Court as marriage of his daughter is scheduled to be solemnized on 28th May, 2021 at Nandgao, Bhim Nagar, Tq. Tuljapur. District Usmanabad and being a father it is the earnest desire of the applicant to attend the marriage of his daughter.

3. Learned APP opposed the bail application and submitted that on merits the Division Bench of this Court could not find any favour with applicant and as such, the Application No. 914/2019 was rejected vide order dated 22.07.2019. Learned APP also invited our attention to the communication received by the office of the Public Prosecutor dated 25.04.2021. Copy of the notification dated 16.04.2018 is annexed to the communication. Learned APP submitted that in view of the notification and more particularly, in view of clause 13 of the notification which refers to Rule 19 of the Maharashtra Prison (Mumbai Furlough and Parole) (Amendment) Rules, 2018 allowing the convict for submitting an application for parole leave on account of marriage of son, daughter, brother, sister. The convict is at liberty to submit such application to the Competent Authority i.e. Divisional

Deputy Inspector of Prisons. On receipt of such application, the Competent Authority would decide the application considering certain factors namely, the offence committed by the convict, his behavior in the prison etc. Learned APP submitted that the applicant in view of this notification may approach the competent Authority by filing an appropriate application and the competent Authority would decide the same.

4. Learned Counsel for the Applicant in view of the submissions of learned APP as well as the Government Notification dated 16.04.2018, prayed for withdrawal of the application with liberty to approach the competent Authority. Learned Counsel further submitted that as the scheduled date is approaching and very short period in between the submission of application to the competent Authority and the scheduled date of marriage, the competent Authority be directed to decide the application, if so submitted by the applicant, within a stipulated period.

5. We find considerable merit in the submissions of learned Counsel for the Applicant. Accordingly, we pass the following order:

ORDER

- A) Interim Application is allowed to withdrawn with liberty to approach the prison authority for submitting the application seeking parole leave.

- B) Such application be filed on or before Monday i.e. 3rd May, 2021.
- C) On receipt of the application the competent Authority to decide the application as early as possible preferably within one week i.e., on or before 10th May, 2021.

(SURENDRA.P. TAVADE, J.)

(PRASANNA B. VARALE, J.)