

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE
CRIMINAL WRIT PETITION NO.2825 OF 2021**

Sumaiya Yaseen Shaikh
wife of Convict Shaifq @ Yasin Jaffer Shaikh ... Petitioner
Vs.

State of Maharashtra & another ... Respondents

Mr.Aniket Vagal for the Petitioner
Ms.Sangeeta Shinde, APP, for Respondent – State

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.
DATED: AUGUST 24, 2021**

P.C.:

1. Learned Counsel appearing for the petitioner submits that though Respondent No.2 has allowed the request of the convict to release him on Covid 19 Emergency Parole, nevertheless, did not accept the sureties furnished by him. It is submitted that the first surety, namely, Shri Khwaja Miya Ismail Shaikh, who is an employee of and working with the Mumbai Municipal Corporation, is ready to stand surety, however, the respondents did not accept him as surety on the ground that he is not an employee of Central or State Government. He further submits that the mother of the convict is ready to stand surety. He invites our attention to the various documents placed on record in the compilation of the Writ

Petition and submits that inspite of giving copies of the said documents, the respondents have not accepted both the sureties and inspite of passing the order in favour of the convict to release him on Covid 19 Emergency Parole, the said order has been frustrated by the respondent – Superintendent of the Nasik Road Central Prison, Nasik.

2. Learned APP appearing for the State, on instructions, submits that the first surety, namely, Shri Khwaja Miya Ismail Shaikh, is a semi-government employee and the requirement is that the employee, who stands surety, should be an employee of the Central or State Government. Secondly, the affidavit on the stamp paper is not furnished by the second surety, namely, Sayra Bi Jafar Shaikh and, as a result, the convict is not released on Covid 19 Emergency Parole.

3. On appreciating the rival contentions, we are of the opinion that though the first surety, namely, Shri Khwaja Miya Ismail Shaikh, is the employee of the Mumbai Municipal Corporation, in the peculiar facts and circumstances of this case, there could not have been any impediment for the respondents to accept him as surety. Accordingly, we direct the respondents to accept Shri

Khwaja Miya Ismail Shaikh, as surety.

4. We have carefully perused the copies of the documents and annexures placed on record in the compilation of the Writ Petition and we are convinced that sufficient proof of identity, residence, income, etc. is placed on record. We direct the respondents to accept the copies of the said documents and upon filing the affidavit on stamp paper by the second surety, namely, Sayra Bi Jafar Shaikh and executing personal bond the convict, namely, Shafiq @ Yasin Jafar Shaikh, be released on parole.

5. The learned Counsel appearing for the petitioner, on instructions, submits that the mother of the convict, namely, Sayra Bi Jafar Shaikh, will submit the affidavit on stamp paper on or before 27th August, 2021. On furnishing such affidavit, without raising any further technical objections, the respondents shall ensure that the convict is released on Covid 19 Emergency Parole.

6. With the above observations, the Writ Petition stands disposed of.

7. All concerned to act on an authenticated copy of this order.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)