

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2018 OF 2021**

Shrihari Rajlingam Guntuka

....Petitioner

Versus

The State of Maharashtra and ors.

....Respondents

Mr. M. M. Chaudhari, advocate for the petitioner.

Mrs. Aruna S Pai, PP for respondent -State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 8th APRIL, 2022.

P.C. :

1. The present petition is filed by the petitioner who is convict No.C-4837 and presently lodged at Nashik Road Central Prison. The petitioner is undergoing life imprisonment awarded to him vide judgment and order passed by learned City Civil Court and Sessions Judge, Mumbai in Sessions Case No. 159 of 1993. The petitioner had applied for emergency parole leave on account of death of his mother. The prison authorities, though observed that on earlier occasion the petitioner surrendered before the prison authorities belatedly, allowed the application and granted parole leave to the petitioner on certain conditions. The petitioner was aggrieved by condition No.4 viz. bearing escort charges. The petitioner has filed the present petition in this Court on 20th May, 2021, challenging the impugned order dated 11th May, 2021.

2. Perusal of the orders shows that though the matter was listed

before this Court on certain dates, on 3rd June, 2021, the Division Bench of this Court, at the request of learned counsel appearing on behalf of the petitioner, permitted the petitioner to file affidavit of Government Surety. Learned counsel for the petitioner submitted that in compliance with the order of this Court, an affidavit was also filed in this Court so as to show the bona fides of the petitioner.

3. Now through the passage of time, there is a remarkable change in the scenario. Learned PP invited our attention to the Maharashtra Prisons (Mumbai Furlough Parole) Rules 1959 amended vide notification dated 10th February, 2022 and submitted that the State Government, in its wisdom, thought it fit to consider similar grievances of the convict and provided a forum in the nature of D.I.G.(Prisons) so as to consider the grievances in respect of escort charges or in respect of period of leave granted to the convict prisoners. Now by amendment to Rule 19 of the Maharashtra Prisons (Mumbai Furlough Parole) Rules 1959, remedy is made available to the convicts.

4. Learned counsel for the petitioner submitted that at the relevant time when he approached this Court, such remedy was not available and resultantly, the petitioner was unable to avail the benefits. There is some merit in the submission of learned counsel for the petitioner but now this Court cannot turn the clock back. The petitioner had sought for leave on account of death of his mother so as to perform

her last rites. The death of the mother of the petitioner occurred on 10th May, 2021. Now after a span of one year, there would be no reason for the petitioner to perform any last rites. Considering these circumstances, we dispose of the petition with liberty to the petitioner to file fresh application in case the petitioner is desirous of performing any periodical rites.

5. We further direct the respondent – State authorities that if such application is filed by the petitioner, the same be decided as per Rules, without raising the rider of the order of this Court passed in this petition. We expect and hope that in future the competent authorities of the State Government dealing with the applications for grant of parole leave on account of death of family member of the prisoner would consider such applications as the application claiming urgency in the matter and pass appropriate orders as expeditiously as possible without unjustified delay. The prison authorities shall keep in mind that any unjustifiable and inordinate delay in deciding such application frustrates the object of the provisions.

6. With these observations, the petition is disposed of.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)