

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4542 OF 2021

Mohd. Shakir Abdul Majid Shaikh .. Petitioner

v/s.

The State of Maharashtra & Anr. .. Respondents

....

Mr. Rupesh A. Jaiswal, for the Petitioner.

Mr. Y.M. Nakhwa, APP, for State.

....

CORAM: NITIN JAMDAR &
N.R. BORKAR, JJ.

DATE : 1 JULY 2022.

P.C:-

Heard the learned Counsel for the parties. Taken up for disposal.

2. The Petitioner was arrested on 15 February 2016. He was convicted under Section 302 read with 34 of the Indian Penal Code by the Sessions Judge, Greater Mumbai on 23 January 2020 in Sessions Case No.363 of 2016. The Petitioner was sentenced to undergo imprisonment for life. Having completed 5 years 8 months, including remission of 6 years and 1 month, the Petitioner applied for grant of furlough leave. The application of the Petitioner was rejected

by Respondent No.2 on 2 March 2021 and the appeal of the Petitioner was rejected on 23 September 2021. The reason given for rejection is that the Petitioner is likely to abscond and, if released, law and order situation may be created and that report raised from the police is negative. In the appeal, same grounds were repeated and the appeal was rejected.

3. We have heard the learned Counsel Mr. Rupesh Jaiswal for the Petitioner and Mr. Y.M. Nakhwa, APP for the State. Reply affidavit also reiterates the same grounds.

4. The Petitioner has not been released on furlough earlier. The impugned orders only state conclusions and make general observations. These general remarks can apply to case of any person applying for furlough. What is the basis to come to the conclusion is not elaborated. It is not that if the police report is negative, no further particulars need to be stated in the order. The impugned order should have given some reasons at least so that the Petitioner would have knowledge why his application for furlough leave was rejected. Both the orders are non-speaking orders bereft any particulars of qua Petitioner's case. Accordingly they will have to be set aside and the authorities will have to be directed to take a decision on the Petitioner's application and decide his case by giving reasons.

5. Resultantly, the impugned orders are quashed and set aside. The application of the Petitioner for furlough leave stands restored. Respondent No.2 will take a fresh decision in law of what is stated above within period of four weeks from today and communicate the decision to the Petitioner.

6. The writ petition is disposed of in above terms.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)