

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 601 OF 2018

Rafiq Mohammad Unnijan Sayyed ... Petitioner

V/s.

The State of Maharashtra ... Respondent

Mr. Harshad Sathe appointed for petitioner.

Ms. S.D. Shinde-APP for State.

**CORAM : SUNIL B. SHUKRE &
ABHAY S. WAGHWASE, J.J.**

DATED : MARCH 13, 2023.

ORAL JUDGMENT : (PER SUNIL B. SHURKE, J)

. Heard.

2. Rule. Rule is made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. By this petition, the petitioner who is the convict in Confirmation Case No. 2 of 2011 along with Criminal Appeal No.764 of 2012 is seeking review of the judgment of this Court delivered on 7th May 2013. By this judgment, this Court refused to confirm the sentence of death awarded to the petitioner and was pleased to modify the sentence of imprisonment of life with payment of fine amount of Rs. 5000/- on each each count for offences punishable under sections

364-A, 302 read with 34 of the Indian Penal Code with a further direction to not release the petitioner and the co-accused before completing actual terms of 30 years of period.

4. According to the petitioner, such a direction of making it compulsory to undergo prison term of 30 years is impermissible in law. Such ground taken by the petitioner, in our considered view does not fall within the scope of review power of this Court. This Court, upon consideration of all the relevant factors has opined that merely awarding sentence of imprisonment for life would not be adequate and it would be necessary to direct that the petitioner goes through a minimum period of term imprisonment and then only it would serve the purpose for which the punishments are awarded.

5. Such being opinion of this Court while issuing impugned direction, it cannot be said that there is an error apparent on the face of record and therefore, only remedy for the petitioner for seeking redressal of his grievance is to challenge the judgment of this Court before the Supreme Court in accordance with law. There is no merit in the petition and the petition deserves to be dismissed. As regards the other prayers made in the petition relating to grant of Parole and grant of furlough, we must say, the petitioner would have to make appropriate applications before the competent authority for seeking parole or furlough as per his entitlement. It appears that the petitioner has not so far made any such applications. We grant liberty to the petitioner to make such applications before the competent authority. In case such applications are made by the petitioner, same shall be

decided in accordance with law by the competent authority as early as possible.

6. In view of the above, the petition stands dismissed.
7. Rule is discharged.

(ABHAY S. WAGHWASE, J)

(SUNIL B. SHUKRE , J)