

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.197 OF 2024

Rubina Suleman Memon

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

Ms. Farhana Shah for the Petitioner.

Mrs. A. A. Takalkar APP for the Respondent-State.

Mr. B. M. Tadavi, Jailor Grade II, Yerwada Central Prison, Pune present.

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**CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 7th FEBRUARY, 2024

P. C.:-

1) By the present Petition under Article 226 of the Constitution of India, the Petitioner, a convict undergoing life sentence at Yerwada Central Prison, Pune has impugned the Order dated 9th January 2024, passed by the Special Inspector General of Police (Prison) Western Region, Pune, rejecting her request for grant of Parole leave on the ground of attending the wedding ceremony of her son namely, Ilyas Suleman Memon, which is scheduled on 17th February 2024.

2) Ms.Shah, learned Advocate for the Petitioner submitted that, on

an earlier occasion, for attending the marriage ceremony of her daughter, she was directed to be released on Parole leave for a period of 6 days by this Court vide Order dated 31st December 2020. She submitted that, at that time this Court had reduced certain conditions imposed upon the Petitioner by the Competent Authority and had directed the Petitioner to deposit a sum of Rs.1,00,000/- with the Police Headquarter, Pune, towards escort charges. That the Petitioner did attend said function and had reported back to the Jail Authority within stipulated period. She submitted that, this is the last marriage in her family and her presence therein is very much necessary being the mother of the groom. That, the Petitioner is behind bars for last more than 16 years. That, deposit of the said amount of Rs.1,00,000/- is an onerous condition and therefore the same may be waived. She submitted that, the brother-in-law of the Petitioner namely Essa @ Anjum was released on parole leave by this Court on the ground of attending religious rituals on demise of his brother, without imposing the condition of security deposit.

2.1) Ms.Shah, learned Advocate for the Petitioner on instructions submitted that, the Petitioner will abide with all the terms and conditions to be imposed by this Court and will not commit breach of it. The learned Advocate further submitted that, the police escort persons comes in uniform, which causes hurdles in freely meeting with relatives who attend the

marriage ceremony. She therefore submitted that, her prayer may be sympathetically considered by allowing present Petition.

4) Mrs.Takalkar, learned A.P.P. opposed the Petition. She submitted that the Smt. Swati Sathe, Deputy Inspector General of Prison, Western Region, Pune has filed an Affidavit dated 6th February 2024, opposing the Petition. She submitted that the Order in case of Essa @ Anjum was passed on 28th January 2021. That in the earlier Petition filed by the Petitioner the Order was passed on 31st December 2020. The Home Department, Government of Maharashtra has thereafter issued Notification dated 10th February 2022, thereby amending Rule 19(2)(A) of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2022 i.e. after passing of the said two Orders. She submitted that the competent Authority has taken into consideration the police report submitted by the Assistant Police Commissioner, Mahim Division, Mumbai and has rejected the request of the Petitioner for releasing her on Parole leave even on the ground of attending the marriage ceremony of her son. She therefore requested that the Petition may be dismissed.

5) Record indicates that by an Order dated 31st December 2020, this Court had permitted the Petitioner to be released on Parole leave for a period of 6 days i.e. 6th January 2021 to 11th January 2021 (inclusive of

both days) for attending marriage ceremony of her daughter with the condition that, the Petitioner shall deposit Rs.1,00,000/- with the Police Headquarter, Pune on or before the stipulated date mentioned in the said Order. In pursuance of the said Order the Petitioner attended marriage ceremony of her daughter and returned to the Jail Authority within stipulated period.

6) It is also a fact on record that, by an Order dated 28th January 2021, passed in Writ Petition No.190 of 2021, the brother-in-law of the Petitioner was directed to be released on parole leave for a period of 7 days for attending religious rituals on the ground of demise of his brother, however without imposing the condition of police escort. The brother-in-law of Petitioner namely Essa @ Anjum had returned to Jail Authority within stipulated period and without committing any breach of the conditions imposed upon him.

7) It is needless to mention that the presence of the Petitioner at the time of marriage of her son is necessary at the venue.

7.1) Taking into consideration overall view of the matter and the submissions advanced by the learned Advocate for the Petitioner, we are of the view that the Petitioner can be permitted to attend the marriage ceremony of her son from 14th February 2024 till 20th February 2024 (both

days inclusive) without imposing condition of payment of escort charges.

7.2) The Jail Authority shall take the Petitioner in escort to the venue/her residence without imposing any charges in that behalf.

7.3) The escort party shall be in civil dress and not in Uniform. The Petitioner is directed to be released from the jail on or before 2.00 p.m on 14th February 2024.

7.4) The Petitioner shall be brought back to Yerwada Central Prison on or before 5.00 p.m on 20th February 2024.

8) Petition is allowed in the aforesaid terms.

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)