

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3972 OF 2023**

Gullu Wali Mohammed Sajida

.... Petitioner

v/s.

The State of Maharashtra and ors.

.... Respondents

Mr. Prashant Pandey a/w. Mr. Ashok Dhanuka, Mr. Dinesh Jadhvani
and Mr. Irfan Unwala i/b. W3Legal LLP for the Petitioner.

Mrs. A.A. Takalkar, APP for the State.

Mr. S.S. Kamble, Senior Jailor, Nashik Road Central Prison, present.

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

DATED : 22nd FEBRUARY, 2024.

P. C. :-

1) Perusal of the records clearly indicate that, the impugned order dated 20th October, 2023 is passed by the Respondent No.5 i.e., Additional Director General of Police and General Inspector of Jail, Maharashtra State, Pune under Rule 4(4) of The Prisons (Bombay Furlough and Parole) Rules, 1959 on the basis of usual police report.

2) It appears that, Respondent No.5 has not taken into consideration the fact that, two of the co-accused in the present crime namely Imran Anwar Kazi and Yusufali Wali Mohammed Sajida have been directed to release on bail by this Court. It also appears that, the decision of the Hon'ble Supreme Court in the case of *Atbir v/s. State of NCT of Delhi* dated 29th April, 2022 in Criminal Appeal No.714 of 2022, has also not been

considered by the Competent Authority i.e., the Respondent No.5 while rejecting the Application of the Petitioner for furlough.

3) In view thereof, we set-aside the order dated 20th October, 2023 passed by Respondent No.5 and remand the Application of the Petitioner dated 13th May, 2022 for its consideration by the Respondent No.5. We direct Respondent No.5 i.e., The Additional Director General of Police and General Inspector of Jail, Maharashtra State, Pune to pass appropriate orders on an Application of the Petitioner after considering the aforesaid facts within a period of three weeks from the date of uploading of present Order on the Official Website of High Court, Mumbai.

4) Petition is accordingly allowed in the aforesaid terms.

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

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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