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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1874 OF 2024**

IN

CRIMINAL APPEAL NO. 71 OF 2019

Mohammed Sajid Marghoob Ansari .. Applicant
Versus
The State of Maharashtra .. Respondent

WITH

CRIMINAL APPEAL NO. 72 OF 2019

Mohamad Majid Mohamad Shafi .. Appellant
Versus
The State of Maharashtra .. Respondent

WITH

CRIMINAL APPEAL NO. 1075 OF 2023

Muzzammil Ataur Rahman Shaikh .. Appellant
Versus
The State of Maharashtra .. Respondent

WITH

CRIMINAL APPEAL NO. 553 OF 2021

Naveed Hussain Khan Rasheed .. Appellant
Hussain Khan
Versus
The State of Maharashtra .. Respondent

WITH

CRIMINAL APPEAL NO. 554 OF 2021

Mohd Faisal Ataur Rahman Shaikh .. Appellant
Versus
The State of Maharashtra .. Respondent

WITH
CRIMINAL APPEAL NO. 555 OF 2021
Suhail Mehmood Shaikh .. Appellant
Versus
The State of Maharashtra .. Respondent

WITH
CRIMINAL APPEAL NO. 556 OF 2021
Asif Khan Bashir Khan @ Juned @ .. Appellant
Abdulla
Versus
The State of Maharashtra .. Respondent

WITH
CRIMINAL APPEAL NO. 557 OF 2021
WITH
INTERIM APPLICATION NO. 1238 OF 2024
IN
CRIMINAL APPEAL NO. 557 OF 2021
Ehthesham Qutubuddin Siddique .. Appellant
Versus
The State of Maharashtra .. Respondent

WITH
CRIMINAL APPEAL NO. 655 OF 2022
WITH
INTERIM APPLICATION NO. 1228 OF 2024
IN
CRIMINAL APPEAL NO. 655 OF 2022
Zameer Ahmed Latifur Rehman .. Appellant
Shaikh
Versus
The State of Maharashtra .. Respondent

WITH

CRIMINAL APPEAL NO. 1104 OF 2023

Tanveer Ahmed Mohd. Ibrahim .. Appellant
Ansari

Versus

The State of Maharashtra .. Respondent

WITH

CONFIRMATION CASE NO. 2 OF 2015

The State of Maharashtra .. Appellant

Versus

Kamal Ahmed Mohd. Vakil Ansari .. Respondents
and ors

WITH

INTERIM APPLICATION NO. 683 OF 2022

IN

CONFIRMATION CASE NO. 2 OF 2015

WITH

INTERIM APPLICATION NO. 3547 OF 2023

IN

CONFIRMATION CASE NO. 2 OF 2015

Ehthesham Qutubuddin Siddique .. Applicant

Versus

The State of Maharashtra and ors .. Respondents

WITH

INTERIM APPLICATION NO.3671 OF 2023

IN

CONFIRMATION CASE NO. 2 OF 2015

Asif Khan Bashir Khan @ Junned @ .. Applicant
Abdulla

Versus

The State of Maharashtra and ors .. Respondents

WITH

**INTERIM APPLICATION NO. 2742 Of 2022
IN**

CONFIRMATION CASE NO. 2 OF 2015

The State of Maharashtra .. Applicant
Versus
Ehthesham Qutubuddin Siddique .. Respondents

WITH

CRIMINAL APPEAL NO. 333 OF 2022

Shaikh Mohd. Ali Alam Shaikh .. Appellant
Versus
The State of Maharashtra .. Respondent

WITH

CRIMINAL APPEAL NO. 71 OF 2019

WITH

INTERIM APPLICATION NO. 1874 OF 2024

IN

CRIMINAL APPEAL NO. 71 OF 2019

WITH

INTERIM APPLICATION NO. 3520 Of 2023

IN

CRIMINAL APPEAL NO. 71 OF 2019

WITH

INTERIM APPLICATION NO. 1892 OF 2024

IN

CRIMINAL APPEAL NO. 71 OF 2019

Mohammad Sajid Margub Ansari .. Appellant
Versus
The State of Maharashtra .. Respondent

Mr.Mihir Desai i/b Pritha Paul for the Applicant.
Mr.Raja Thakare, Senior Advocate a/w SPP A.M. Chimalkar,
Siddharth Jagushte i/b MM Deshmukh, APP for the State.

Mr.Rui Rodrigues a/w J. Sheth for Respondent No.2.

PI Prashant Mohite, present.

Mr.G.K. Sarode, Deputy Superintendent, Mumbai Central Prison present.

Mr.S.S. Kamble, Senior Jailor, Nashikroad Central Prison present.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATE : 10th June, 2024.

P.C.

1] In the pending Criminal Appeal No.71/2019, the Applicant has taken out the present Interim Application, seeking permission for attending the examination of 2nd year LLB Course, whilst, he is housed in Nashik Road Central Prison, Nashik.

It is the specific contention of the Applicant that he wants to appear for the second semester examination of the LLB Course, which was scheduled in the month of May, 2024 and accordingly he was issued a Hall Ticket by Siddharth College of Law on 04.04.2024.

On 05.04.2024, the Applicant through his lawyer sent a representation to the Superintendent, Nashikroad Central Prison, as well as the Inspector General, Deputy Inspector General, Nashik, seeking permission to appear for the examination, which was to commence from 03.05.2024 and to conclude on 15.05.2024.

He also made a representation to the Jail Authorities as well as to the DIG, the details of which are furnished in the Application.

2] Since the Applicant stood convicted under in MCOCA Special Case, he is presently incarcerated and drawing parity with co-accused who is presently housed in Nagpur Central Prison, who was permitted to appear for the third semester Law examination, a similar request is made by the Applicant by relying upon the decision of the Apex Court in Unnikrishnan vs. State of Andhra Pradesh & Ors., which focuse on the opportunity of the dignified life, which includes the right to prosecute further studies.

It is in this background, the matter was taken up for hearing and the Applicant is at the stage where his examination for Family Laws(I) is slated on 12.06.2024.

3] In pursuance of the directions issued by this Court on 10.05.2024, to explore the possibility to work out the mechanism, so that the Applicant could undergo LLB examination, then scheduled on 13.05.2024 and now re-scheduled on 12.06.2024,

the Vice Chancellor of Mumbai University had constituted a Committee comprising of the following persons with their respective designation :

1 Dr.A.K. Singh - Chairperson (I/c Dean of Faculty of Interdisciplinary, University of Mumbai and Principal, Thakur Ram Narayan College of Law)

2 Dr. Pooja Raundale - Member (Director, Board of Examination and Evaluation, University of Mumbai).

3 Dr.Rajeshri N. Varhadi - Member (Professor, Department of Law, University of Mumbai, I/C Director, University of Mumbai Law Academy and Former Head, Department of Law, University of Mumbai.

The Committee held meetings and deliberated with the concerned officers which included the DIG, Prisons; Senior Jailor, Nashik Prison; ATS Officers, as it was expected that the Committee shall take into account the safety and security concern of the Applicant, on one hand as well as the Society on the other.

The Committee reviewed the examination eligibility documents of the Applicant in consultation with the in-charge Principal of Siddharth Law College, where the Applicant is enrolled as a student.

Upon deliberation, it was noted that the Applicant is incarcerated for 17 years and in fact the possibility of his ensuring the compliance with the mandatory attendance requirement for appearing for the LLB examination could not be complied with and leaving it for the Bar Council of India to work upon it, a temporary arrangement was worked upon, so as to enable the Applicant to appear for his paper , which is scheduled on 12.06.2024.

A copy of the Report is tendered by Mr. Rodrigues, which is marked as X for identification.

4] Though, for the appearance for the examination to be conducted in future, some long term mechanism in consultation with Bar Council of India/Maharashtra is expected to be worked out, and the Committee has suggested that it shall be impleaded as necessary party, but for the time being, a consensus is arrived that the Applicant shall be permitted to appear for the examination scheduled on 12.06.2024 and instead of he appearing at the Centre, which is indicated for the students of Siddharch Law College, it is agreed that the examination shall be conducted in the Nashikroad Central Prison and this is agreed by the Deputy Inspector General of Prisons, Southern Region,

Byculla, Mumbai Mr. Yogesh Desai in his Affidavit dated 07.06.2024.

The peculiar circumstances and the concerns are specifically highlighted in the said Affidavit and in fact in Para 10 and 11, the deponent has specifically stated that, with a broader view to make the law education facility in the prison itself, the prison administration has sent request letter to the Vice Chancellor to the Rashtra Sant Tukadoji Maharaj Univerisiy, Nagpur; Dr. Babasaheb Ambedkar Marathwada University, Sambhajinagar; Kaviyatri Bahinabai Chaudhari North Maharashtra University, Jalgaon and Savitribai Phule University, Pune ; and Mumbai University and has requested to establish study and exam centres at respective prisons.

Keeping in mind the opportunity of the prisoners to improve their qualifications and take up examination, which involve a tedious task, it is suggested that those prisoners, who have taken admission for Law courses, their examination is required to be taken up in the respective prisons.

The Deputy Inspector General of Prisons has specifically instructed, Ms.Deshmukh to inform the Court that there is no hesitancy in conducting the examination of the Applicant in

Nashik Central Prison.

5] In the earlier hours, when the matter was called out today, I had specifically asked Mr. Rodrigues to give the name and designation of the person alongwith necessary detail, who shall be acting as invigilator for the examination of the Applicant, which is to be conducted on 12.06.2024, in Nashikroad Central Prison.

Accordingly, on necessary instructions from the in-charge Principal of Siddharth Law College, Mr. Rodrigues has forwarded the name of Dr.Suryawanshi Dadasaheb Bankat, Assistant Professor (CHB), as Invigilator to the Controller of Examination, University of Mumbai, Kalina, Santacruz, Mumbai. Mr. Rodrigues make a categorical statement that on behalf of the University, Dr. Suryawanshi Dadasaheb Bankat shall be acting as an Invigilator and he shall report to the Nashik Central Prison, one hour before the examination starts i.e. 10.30 a.m. and which is to continue upto 12.30 p.m.

6] As an agreed procedure, the question paper for the examination shall be forwarded on two email addresses, one of the prison and other of the personal email id of the Superintendent, Nashikroad Central Prison and the addresses which are supplied by Ms.Deshmukh to the Vice Chancellor,

Mumbai University, Mumbai, are to the following effect :-

“(a)nashikcp-mh@mah.gov.in and

(b) arunamugutrao@gmail.com”

7] The Superintendent Nashikroad Central Prison has also informed the University vide communication dated 07.06.2024 that the Security Officer Mr.Sachin Chikne and a two other employees have been specifically deputed for ensuring security of the prisoner, who is to take up the examination.

A copy of the said communication dated 07.06.2024 is already received by the Vice Chancellor of Mumbai University and has been placed in the hands of Mr. Rodrigues.

8] In the wake of the aforesaid arrangement, the Applicant is permitted to take up examination on 12.06.2024 (Family Laws I-LLB second semester), by remaining in the Nashikroad Central Prison, with all the necessary arrangements being made by the Superintendent of the said prison.

The Invigilator Dr. Suryawanshi Dadasaheb Bankat shall remain present in the jail for conducting the examination and shall report, one hour before the examination begins. Within the time which is specified at other examination centres, the question paper shall be forwarded on the aforesaid two email addresses,

which shall then be downloaded by the Superintendent and the Invigilator as well as Jail Superintendent shall put their signatures on the paper, and at the scheduled time i.e. at 10.30 a.m., the question paper shall be handed over to the examinee (prisoner), who shall then avail the time limit of two hours to answer the paper.

Upon completion of this exercise, the paper shall be handed over to Dr.Suryawanshi, who shall put it in an envelope and then seal the same with his seal and signature, to be handed over to the In-Charge Principal of Siddharth Law College.

Upon this exercise being carried out, the Applicant shall be said to have answered the examination paper and the answer paper shall be then forwarded for its valuation and processed accordingly.

9] Though Mr. Rodrigues, has a suggestion to make that, to work out a mechanism for appearance of the inmates in various jails in the State of Maharashtra and in particular as regards the Law examination, as the Committee has noticed that there are several requirements/compliances like Moot Court competitions, requisite percentage of attendance/assignment submissions of research papers etc., we deem it appropriate to leave it at

appropriate stage, as presently this Interim Application is restricted only to the examination which the Applicant is likely to take on 12.06.2024.

Though a request is made by Mr. Rodrigues that, the Interim Application has served its purpose, considering the Affidavit of Mr. Desai, the Deputy Inspector General of Prisons, who represent the Prison Authorities and who has come with a positive stand that some policy need to be worked out, so that this issue will not be brought before the court each time when a prisoner want to appear for examination and particularly the LLB examination and a suggestion is given that the Bar Council of India/Maharashtra, shall be involved, before a policy is framed in this regard, we deem it appropriate to direct listing of the Interim Application on 01.07.2024, under the caption "For Directions".

[MANJUSHA DESHPANDE,J]

[BHARATI DANGRE, J]