

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO. 1527 OF 2019
WITH
INTERIM APPLICATION NO. 2559 OF 2024
IN
WRIT PETITION NO. 1527 OF 2019**

Farooq Illiyas Motorwala .. Petitioner/Applicant

Versus

The State of Maharashtra and Ors. .. Respondents

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Mr. N. N. Gawankar a/w Mr. Manas N. Gawankar a/w Mr. Shreyas N. Gawankar, for the petitioner/Applicant.

Dr. Ashvini A. Takalkar, APP, for the State.

Ms Suvarna Chorge, Jailor Group – II, Nashik Jail, is present.

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

DATED : 15th JULY, 2024

P.C:-

1. Mr. Gawankar has invited our attention to an order passed by the Division Bench of this Court dated 08.03.2019 in case of *Yogesh Daulat Gadakh V/s. The State of Maharashtra* alongwith the two other connected Writ Petitions, where, by taking note of the decision of the Apex Court in case of *Asfaq V/s State of Rajasthan and Ors.*¹, where the parameters and purpose of releasing a convict on Prole and Furlough has been reiterated, and the issue as to whether Parole or Furlough can

¹ (2017) 15 SCC 55

be refused to a convict who is convicted for committing a serious or heinous crime (such as for terrorism), is specifically discussed. It is in the wake of this decision, the Division Bench has formulated the following issues for consideration and requested it to be placed before the Hon'ble the Chief Justice for passing of an order on the Administrative Side:

“(I) Whether the decision of the Division Bench of this Court in the case of Sharad Devaram Shelake (supra) can be said to be correct and can be read as binding precedent in the light of the subsequent decision of the Apex Court in the case of Asfaq (supra)?

(II) Whether Sub-Rule 13 of Rule 4 which was introduced by the amendments made in the years 2012, 2016 and 2018 is violative of Articles 14 and 21 of the Constitution of India?”

Let the Registry appraise us about the development in this regard.

List on 24.07.2024 under the caption “For Directions”.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)