

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 7123 OF 2020

Rubina Suleman Memon ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

Ms. Farhana Shah - Advocate for the Petitioner.
Smt. P. P. Shinde – APP for the Respondent/State

**CORAM : S. S. SHINDE AND
ABHAY AHUJA, JJ.
(VACATION COURT)**

DATE : 31st DECEMBER 2020.

P.C. :

1. Heard the learned counsel for the parties.
2. By this Petition, filed under Article 226 of the Constitution of India, the Petitioner, who is a life convict undergoing sentence of life imprisonment at Yerwada Central Prison (Ladies wing) as convict No. 2446 pursuant to conviction by designated TADA Court for the offence under Section 120-B of the Indian Penal Code, 1860 and under Section 3(3) of TADA (P) Act, 1987, is seeking Parole leave for attending the marriage function of her daughter, Aliya, which is fixed on 8th January 2021.

3. Petitioner had filed an application dated 08.10.2020 seeking grant of Parole leave for her daughter's marriage. However, no decision had been taken on the same except mail dated 22.12.2020 from the office of the Divisional Commissioner stating that the in-charge authority is the DIG, who will deal with the said application for marriage parole leave.

4. It is submitted that the Petitioner's advocate had also made phone calls to the Yerwada Central Prison on 11.11.2020 to inquire about the status of the Petitioner's application and it was informed that the report from the concerned Mahim Police Station was awaited after which the parole leave application would be decided. As there has been no further intimation or order received from the Respondents, this Petition has been filed.

5. On 29.12.2020, when the matter was called out, the learned APP has submitted a Police report dated 28.12.2020 allowing the Petitioner two days Parole leave to attend the wedding of her daughter subject to payment of Police Bandobast charges prior to such release. On 29.12.2020, this Court passed the following order :

"1. The learned APP appearing for the Respondent-State has received report from the Superintendent of Yerwada Central Prison, Pune. The same is taken on record.

2. List the matter on 31st December, 2020.

3. This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.”

6. Today, when the matter is called out, the advocate for the Petitioner submits that the parole leave may be granted atleast for the period of 7 days to attend the marriage related functions of her daughter.

7. It is submitted on behalf of the Petitioner that the Petitioner has completed imprisonment of more than 13 years and has not even once been released on furlough/parole till date.

8. Upon a query from the Court as to the conduct of the Petitioner during the period spent in Yerwada Jail, it is stated by the learned APP that the same is satisfactory as contained in the police report submitted to this Court.

9. Considering the aforesaid circumstances and keeping in mind the human rights of the daughter, we are inclined to entertain the Petition. We accordingly direct Respondent No. 4 viz. the Superintendent of Prison, Yerwada Central Prison, Pune to release the Petitioner viz. Smt. Rubina Suleman Memon with Police Bandobast on parole leave from 6th January 2021 to 11th January 2021 (inclusive of both days) to attend the marriage

related functions of her daughter subject to a deposit of Rs. 1,00,000/- with the Police Headquarter, Pune by 5th of January, 2021. The Petitioner is directed to report back to Respondent No. 4 by 12th January, 2021.

10. This order is without prejudice to the contentions of the parties and subject to further arguments before the Regular bench.

11. List the matter on 19th January, 2021 before Regular bench.

12. This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

[ABHAY AHUJA, J.]

[S. S. SHINDE, J.]
