

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

920. CRIMINAL WRIT PETITION No. 571 of 2020

Kavita W/o Dilip Baviskar,
(Dilip S/o Kishor Baviskar,
at present confined in Open Jail,
Paithan as convict No. 5043)
age 30 years occupation house wife
R/o Sachin Nivas, Samrat Ashok Nagar,
OT Section, Ulhasnagar, Thane, Mumbai.

...Petitioner

VERSUS

The State of Maharashtra
Through : The Superintendent,
Open Prison, Paithan Dist. Aurangabad

...Respondent

Mr Rupesh A. Jaiswal, Advocate for petitioner
Mrs P.V. Diggikar, Addl. Public prosecutor for the Respt./State

CORAM : T.V. NALAWADE &

SHRIKANT D. KULKARNI, JJ.

DATE : 30th June, 2020

J U D G M E N T (Per : T.V. NALAWADE, J.)

1. Rule. Rule made returnable forthwith.
2. By consent, heard both the sides for final disposal.
3. This proceeding is filed by wife of the prisoner challenging the order made by the respondent, dated 22nd June

2020. The petitioner is kept in open prison, Paithan, and he is life convict. He was on furlough leave on one occasion and on that occasion he had surrendered in time. He is behind the bar for more than eleven years and if remission period is considered, the total period will be of 14 years.

4. In the notification dated 8th May 2020, the State Government has given direction to the Jail Authority to see that the prisoners, who are behind the bars, are released on emergency parole in view of the situation created by pandemic of Covid-19 virus. In the said notification, there is condition that the prisoner, who is otherwise eligible to get furlough or parole leave, can get the benefit of this notification, provided that in the past he was released from jail on furlough or parole leave on two occasions and on all the occasions, he had surrendered in time.

5. Due to the aforesaid condition, peculiar and strange circumstance is created as against prisoners, like present petitioner, even if he has been actually behind the bar for more than 11 years. The petitioner was granted furlough leave only once and on that occasion he turned up in time. He did not avail furlough leave on other occasion and not claiming the furlough leave on other occasion cannot make him dis-entitled to claim the benefit of the

aforesaid notification. The purpose behind putting such condition can be only to ensure that the prisoner will surrender in time after expiry of emergency parole period. There cannot be any other intention behind such a condition.

6. In view of the object behind the aforesaid notification and the aforesaid circumstances, this Court holds that the respondent ought to have granted the benefit of the aforesaid notification to the petitioner. The order made by the respondent against the petitioner cannot sustain in law. So, the petition is allowed. The order made by the respondent, dated 22nd June 2020, is quashed and set aside. The respondent is hereby directed to give the benefit of the notification dated 8th May 2020 of the State Government to the petitioner, with usual terms and conditions. It should be done within seven days. Rule made absolute in those terms.

(SHRIKANT D. KULKARNI)
JUDGE

(T.V. NALAWADE)
JUDGE