

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

**CRIMINAL WRIT PETITION NO.665 OF 2020**

Ashok Laxman Kalaskar  
C-5155, Age Major, Occ. Nil.,  
R/o at present Paithan Open Prison,  
Taluka Paithan, District Aurangabad.

..Petitioner

Versus

1. The State of Maharashtra  
Through its Home Department,  
Mantralaya, Mumbai.

2. The Superintendent of the  
Open Prison, Paithan, Dist. Aurangabad.

..Respondents

...  
Mrs. Sharda P. Chate, Advocate for the petitioner and  
Mr. R.D.Sanap, APP for the respondents.  
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**CORAM : RAVINDRA V. GHUGE & M.G.SEWLIKAR, JJ.**

Dated : August 4, 2020

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**ORAL JUDGMENT : (Per Ravindra V. Ghuge,J.):-**

1. This matter was before us on 24.7.2020. We were categorically informed by the learned Advocate for the petitioner that the application of the petitioner for seeking emergency parole under Rule 19(1)(C) of the Maharashtra Prisons (Furlough and Parole) Rules, 1959 ("1959 Rules" hereinafter), post the amendment dated 8.5.2020, has been rejected only on the ground that the petitioner had applied for parole and/or furlough on less than two occasions, prior to the introduction of the amendment to 1959 Rules vide Government Resolution dated

8.5.2020. We had, therefore, taken up this matter in the group of identical cases and we have stated in the Court that this matter would be allowed. Subsequently, while formalizing the order to be passed, we found that this matter was not similar or identical to the group and the application for emergency parole filed by the petitioner was rejected since he had reported belatedly by 30 days after he had obtained parole leave and was released from the Yerawada Central Jail on 11.1.2016.

2. This matter has now been placed before us, in view of the order of the Honourable The Chief Justice of the Bombay High Court.

3. The learned Advocate for the petitioner has orally set out before us a host of reasons, as to why the petitioner had jumped the parole period and had not reported to the Prison. He had admittedly reported belatedly by 30 days. However, we do not find any averment in the memo of the petition to justify the belated reporting of the petitioner. It is informed that the petitioner, without reporting to the prison authorities, had moved an application for seeking extension of parole leave, which was rejected. Aggrieved by the said rejection, a Criminal Writ Petition was filed by him before this Court, which was also rejected. Neither these contentions are set out in the memo of the petition, nor have the orders referred to by the learned Advocate, placed before us.

4. The learned Advocate for the petitioner makes a solemn statement, on instructions, that after the petitioner was granted parole for about 30 days and had also enjoyed an extension of 30 days in 2016, his remission at the rate of three days for each day of delay has been forfeited as he belated reported by 30 days before the Prison authorities.

5. We are aware of the consistent view taken by this Court in the light of the Covid-19 Pandemic, relying upon the amendment to the 1959 Rules introduced by the Government Resolution dated 8.5.2020 of the State Government. Since the petitioner has already been penalized by forfeiture of 90 days remission, he has already suffered the said penalty and in our view, he need not be penalized for the same act, twice, keeping in view the intention of the State Government to decongest the prisons, owing to the Covid-19 Pandemic.

6. In view of the above, this Criminal Writ Petition is allowed. The impugned order dated 8.7.2020 stands quashed and set aside. The petitioner shall be granted emergency parole leave for a period of 45 days w.e.f. 16.8.2020. We make it clear that the petitioner will have to report to the Prison Authorities on/or before the 45th day and he shall not remain away from the prison, even on the pretext that his

application, if any, seeking extension of emergency parole is pending.

7. We find it appropriate to caution the petitioner that as the Covid-19 positive patients are alarmingly increasing in the State of Maharashtra, he shall confine himself to his residence and shall refrain from moving around in the society, except on emergency grounds.

(M.G.SEWLIKAR, J.)

(RAVINDRA V. GHUGE J.)

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A.K.Losarwar, PS