

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 843 OF 2020

Kailash s/o. Jagannath Pradhan
(Convict No. 8321),
Age 40, Occu. Nil,
R/o. Aurangabad Central Prison,
Harsool.

....Petitioner.

Versus

1. The State of Maharashtra
Through Deputy Inspector General (Prison)
Central Division, Aurangabad,
District – Aurangabad.
2. The Police Superintendent,
Aurangabad Central Prison,
Harsool.

....Respondents.

Mr. N.J. Pahune-Patil, Advocate for petitioner.
Mr. B.V. Virdhe, APP for respondents.

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 07/09/2020.

ORAL JUDGMENT : (PER T.V. NALAWADE, J.)

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
2. Present proceeding is filed to challenge the order made by respondent by which emergency parole is refused to the petitioner. The parole is refused on the ground that he was not released on two occasions in the past either on parole or on furlough and that is the pre-condition for giving the benefit of notification dated 8.5.2020. No other reason is given. The

learned counsel for petitioner made a statement that the petitioner is otherwise eligible for getting such relief as he has been behind bars for the period of more than four years now.

3. This Court had occasion to consider the aforesaid notification in **Criminal Writ Petition No. 571/2020 (Kavita w/o. Dilip Baviskar Vs. The State of Maharashtra)** decided on **30.6.2020**. This Court has held that such condition is there only to ensure that the prisoner will return to jail when the parole period is over. A prisoner who has not availed parole or furlough in the past, against that prisoner such condition cannot be used as such inference is not possible against him. Due to all these circumstances, this Court holds that order made by respondent cannot sustain in law. In the result, following order.

ORDER

- (I) Petition is allowed.
- (II) Order made by respondent No. 2 dated 7.8.2020 is hereby quashed and set aside. The application made for emergency parole is hereby allowed. The petitioner is to be released on emergency parole on usual terms and conditions within ten days from the date of this order.

Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]