

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

89 CRIMINAL WRIT PETITION NO. 810 OF 2020

Sanjay s/o. Virendrakuar Agrawal,
 Age 31 years, Occu. Business,
 R/o. Convict No. 8672,
 Harsul Central Jail,
 Harsul, Aurangabad

.. Petitioner

Versus

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

2. The Divisional Commissioner,
 Aurangabad.

3. Superintendent of Central Prison,
 Harsul Central Jail, Aurangabad.

.. Respondents.

...
 Advocate for Petitioner : Mr. Shaikh Kayyum Najir
 APP for Respondents : Mr. S. P. Tiwari
 ...

98 CRIMINAL WRIT PETITION NO.923 OF 2020

Ashok s/o. Lakhanlal Sura, C-8124,
 Age Major, Occu. Nil,
 R/o. At Present Paithan Open District
 Prison, District Aurangabad.

.. Petitioner

Versus

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

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

.. Respondents.

...
 Advocate for Petitioner : Ms. Sharda P. Chate
 APP for Respondents : Mr. R. B. Bagul
 ...

100 CRIMINAL WRIT PETITION NO.927 OF 2020

Chhagan @ Rishi Rama Jadhav,
Convict No. 8664, Age Major,
Occu. Convict, R/o. At Present confined
at Central Prison Aurangabad. .. Petitioner

Versus

The State of Maharashtra
Through Superintendent,
Central Prison Aurangabad. .. Respondent.

...
Advocate for Petitioner : Mr. Rahul A. Jaiswal
APP for Respondent : Mr. S. P. Tiwari
...

103 CRIMINAL WRIT PETITION NO. 934 OF 2020

Baburao S/o. Sarangdhar Khade, C-8927,
Age Major, Occu. Nil,
R/o. At Present Harsul Prison,
Taluka and District Aurangabad. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Home Department
Mantralaya, Mumbai.
2. The Superintendent
of the Central Prison Harsool,
District Aurangabad. .. Respondents.

...
Advocate for Petitioner : Ms. Sharda P. Chate
APP for Respondents : Mr. P. N. Kutti
...

106 CRIMINAL WRIT PETITION NO.945 OF 2020

Bhausahab S/o. Mohan Sabde,
Convict No. 8502, Age Major,
Occu. Convict, R/o. At Present confined
at Central Prison Aurangabad. .. Petitioner

Versus

The State of Maharashtra
Through Superintendent,
Central Prison Aurangabad.

.. Respondent.

...
Advocate for Petitioner : Mr. Rahul A. Jaiswal
APP for Respondent : Mr. R. B. Bagul
...

108 CRIMINAL WRIT PETITION NO.955 OF 2020

Tukaram s/o. Kishanrao Shinde, C-9106,
Age Major, Occu. Nil,
R/o. At Present Harsul Prison,
Taluka and District Aurangabad.

.. Petitioner

Versus

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

2. The Superintendent
of the Central Prison Harsool,
District Aurangabad.

.. Respondents.

...
Advocate for Petitioner : Ms. Sharda P. Chate
APP for Respondents : Mr. Y. G. Gujrathi
...

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

DATE : 07th SEPTEMBER, 2020

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

Rule. Rule made returnable forthwith. By consent heard learned counsel for both the sides for final disposal.

2. All the proceedings are filed to challenge the orders of rejection of emergency parole made against the petitioners. The statements are made by the learned counsel for petitioners that, petitioners have been behind bar for a period of more than three years and they were eligible for consideration for grant of emergency parole, when the impugned orders

were made. The respondents have refused emergency parole on the ground that the petitioners/prisoners had not either availed parol or furlough in the past or they were not released either on parole or furlough on two occasions in the past as mentioned in the Notification of Government dated 08-05-2020.

3. This Court had an occasion to consideration the aforesaid notification in the proceedings like *Criminal Writ Petition No. 571 of 2020 (Kavita W/o Dilip Baviskar Versus State of Maharashtra)* and subsequent proceedings. This Court has held that the said condition had some intention to see that the prisoner/s will return to Jail, if they are granted emergency parole. If prisoner/s had not availed emergency parole in the past, from that circumstance, inference is not possible that prisoner/s will not return to jail, after availing emergency parole under said notification. Such interpretation is made by this Court already in the past and the orders made by respondents were set aside, which were on such grounds. For the very same grounds, this Court holds that orders made against the petitioners/prinsoners cannot sustain in law. In the result, all the Criminal Writ Petitions are allowed. The impugned orders are hereby quashed and set aside. The direction is hereby given to the authority concerned to release all the petitioners / prinsoners on emergency parole under Government Notification dated 08-05-2020, subject to usual terms and conditions within seven days from the date of receipt of this order. Rule is made absolute in above terms.

[M. G. SEWLIKAR]
JUDGE

[T. V. NALAWADE]
JUDGE