

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

CRIMINAL WRIT PETITION NO.991 OF 2019

Gulab s/o Gangaram Salunke,
Age Major, Occu: Nil,
R/o C-8793, Harsool Jail,
Aurangabad.

..Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
Home Department, Mantralaya,
Mumbai-32

2. The Deputy Inspector of Police (Prison),
Central Prison, Harsool,
Aurangabad District Aurangabad.

3. The Superintendent of Prison,
Central Prison Harsool,
Tq. & Dist. Aurangabad.

..Respondents

...

Mr. M.M. Parghane, Advocate for Petitioner.
Mr. B.V. Virdhe, APP for the Respondent-State.

...

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

DATED : 16TH SEPTEMBER, 2020.

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

1. Rule. Rule made returnable forthwith.

2. Heard by consent of both the sides for final disposal.

3. Present proceeding is filed to challenge the order made by the respondent dated 07.08.2020 on application

filed for emergency parole, which is permissible under Government Notification dated 08.05.2020. The application is rejected on the ground that the petitioner had not availed either parole or furlough on two occasions till 07.08.2020 which is requirement of notification dated 08.05.2020. This Court had occasioned to consider this condition and this Court has interpreted the condition. This Court has observed that the said condition is there only to ensure that the prisoner returns to prison after the emergency parole period is over. A prisoner becomes entitle to furlough after completion of 3 years of actual imprisonment. This condition is applicable to regular parole as provided in Rule 19 of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959. Such interpretation is also made by this Court in the past. Thus, when a prisoner becomes eligible to get regular parole or furlough, he can be considered for giving him emergency parole.

4. In view of this position, this Court holds that the order made by the respondent cannot sustain in law. In the result, the following order is passed:

ORDER

- I. The petition is allowed.
- II. The order made by the respondent dated 07.08.2020, is hereby quashed and set aside.

(3)

III. The application filed for emergency parole by the present petitioner is allowed.

IV. The petitioner be released on emergency parole within seven days from today on usual terms and conditions.

V. Rule is made absolute in those terms.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)

Mujaheed//