

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

CRIMINAL WRIT PETITION NO. 1024 OF 2020

Prashant Ganesh Kharade C-9119
At present Harsool District Prison,
Dist. Aurangabad

..PETITIONER

VERSUS

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

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

..RESPONDENTS

....

Mrs. S.P. Chate, Advocate for petitioner
Mr. Y.G. Gujarathi, A.P.P. for respondent - State

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**CORAM : T.V. NALAWADE AND
R.G. AVACHAT, JJ.
DATED : 22nd SEPTEMBER, 2020**

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

Rule. Rule made returnable forthwith. Heard finally with the consent of both sides.

2. Present petitioner has filed this petition to challenge the order dated 07th August, 2020 passed by Respondent No.2 by which emergency parole is refused to the petitioner. The refusal is on the ground that he has

not availed either parole or furlough on two occasions prior to the relevant date. It is contended that as per Government Notification dated 08th May, 2020 unless and until the prisoner has availed parole or furlough on two occasions, he is not entitled to avail benefit of this notification.

3. This Court has occasion to consider the aforesaid notification and interpret it. Subsequently also this Court had occasion to consider this condition in the case of *Ramesh Ramchandra Rathod Vs. State of Maharashtra and Another* in *Criminal Writ Petition No. 694 of 2020* decided on 24th July, 2020. This Court has allowed the petition by observing that such condition is there only to ensure that the prisoner will return back in prison when the parole period is over. Emergency parole cannot be refused only on the ground that the prisoner has not availed parole or furlough on two occasions in the past. In view of that interpretation of this Court, the impugned order passed by Respondent No.2 cannot sustain.

4. Today, learned A.P.P. produced on record particulars in respect of Prashant Ganesh Kharade, present petitioner and the particulars show that on 31st August, 2020 he had completed imprisonment of 03 years, 07 months and 20 days. Thus, he is eligible for consideration. Hence the following order :-

ORDER

- (I) Criminal writ petition is allowed.
- (II) Impugned order dated 07th August, 2020 passed by Respondent No.2 is hereby quashed and set aside.
- (III) Direction is hereby given to the authority concern to release the convict prisoner on emergency parole under Government Notification dated 08th May, 2020 subject to usual terms and conditions, within seven days from the date of receipt of this order.
- (IV) Rule is made absolute.
- (V) Authenticated copy is allowed.

(R.G. AVACHAT, J.)

(T.V. NALAWADE, J.)

SSD