

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

932. CRIMINAL WRIT PETITION NO. 1050 OF 2020

Pandurang S/o Kashiba Divse,
Convict No. 8600, age major
R/o at present confined at Central Prison,
Aurangabad Taluka & Dist. Aurangabad ...Petitioner

Versus

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

AND

933. CRIMINAL WRIT PETITION NO. 1051 OF 2020

Digambar S/o Dattarao Karkar,
Convict No. 8631, age major
R/o at present confined at Central Prison,
Aurangabad Taluka & Dist. Aurangabad ...Petitioner

Versus

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

Mr. Rupesh A. Jaiswal, Advocate for petitioners in both petitions
Mr. G.O. Wattamwar, Addl. Public Prosecutor for Respt./State in
Cri.W.P. No. 1050 of 2020
Mr. R.B. Bagul, Addl. Public Prosecutor for Respt./State in Cri.W.P.
No. 1051/2020

CORAM : T.V. NALAWADE &

M.G. SEWLIKAR, JJ.

DATE : 24th September, 2020

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

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. The present proceedings are filed to challenge the orders made by the respondent by which emergency parole is refused. Emergency parole is permissible as per the Notification dated 8th May 2020. The reason given for rejection of emergency parole is that the petitioners were not released on two occasions in the past either on furlough or parole. The orders passed are that on one occasion they were released on parole and they came back to jail in time. This Court has interpreted this condition mentioned in the Notification dated 8th May 2020 and this Court has held that this condition cannot be used against prisoner who has not at all availed either furlough or parole in the past. If the prisoner is otherwise eligible then emergency parole needs to be granted to him. In view of this circumstance, this Court holds that the orders made by the respondent against the petitioners cannot sustain in law.

3. In the result, both the petitions are allowed. The orders made by the respondent against the petitioners are hereby quashed and set aside. The applications filed by the prisoners/petitioners for

emergency parole under the Notification dated 8th May 2020 are hereby allowed. The petitioners are to be released on emergency parole on usual terms and conditions, within seven days from today. Rule made absolute in those terms.

4. Authenticated copy of this order is allowed to both the sides.

Sd/-
(M.G. SEWLIKAR)
JUDGE

Sd/-
(T.V. NALAWADE)
JUDGE

Madkar