

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

104. CRIMINAL WRIT PETITION NO. 1135 OF 2020

Shubham S/o Devidas Gajbhare
(His brother Sahebrao S/o Devidas Gajbhare,
Convict No. 8493 confined at Central Jail, Aurangabad)
age 24 years occupation convict R/o infront of Budhavihar,
Dhanegaon District Nanded

...Petitioner

VERSUS

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

...Respondent

Mr. Rupesh A. Jaiswal, Advocate for petitioner
Mr. K.D. Mundhe, Addl. Public Prosecutor for Respt./State

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

DATE : 13th October, 2020

ORDER:

The petition is filed to challenge the order made by the respondent by which emergency parole is refused to the petitioner. Though no specific ground is mentioned, in the column of offences for which which sentence is given, it is mentioned that he is convicted for offences punishable Under Sections 363, 366(A) and

376 of the Indian Penal Code. Last time, it was submitted by the learned Counsel by relying on the some cases decided by the Nagpur Bench of the Bombay High Court, in which relief of emergency parole was given even when there was conviction for offence of rape, the petitioner is entitled for emergency parole. This Court has already held that though the term used is 'emergency parole' in Notification dated 8th May 2020, the other conditions mentioned in it show that prisoner needs to complete the term during which he could have availed either parole or furlough at least on two occasions. Furlough can be availed only when prisoner completes jail term of three years. In view of the nature of conditions imposed in Notification dated 8th May 2020, the Rules of Parole and Furlough need to be seen for consideration of emergency parole under the Notification dated 8th May 2020. Rule 4(21) of the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 1959 shows that when there is conviction for Sexual Offences against minor then benefit of the furlough cannot be given to such a prisoner. Today, the learned Addl. Public Prosecutor produced on record the new guidelines given by the High Power Committee constituted for present purpose. The guidelines dated 11th May 2020 show that the Committee has advised not to give benefit when conviction is for offence

punishable U/S. 366(A) and also U/S. 376 of I.P.C. In Rule 4(12), rape is also covered and so such convict is not entitled to get benefit of the parole and furlough. In view of these circumstances, this Court holds that no error can be found in the order made by the respondent. The writ petition stands dismissed.

Sd/-
(M.G. SEWLIKAR)
JUDGE

Sd/-
(T.V. NALAWADE)
JUDGE

Madkar