

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

93. CRIMINAL WRIT PETITION NO. 1146 OF 2020

Asif @ Ashipaq S/o Shahanawaj Patel,
age major, Convict No. 9060
R/o at present in Harsul Jail, Aurangabad ...Petitioner

VERSUS

1. The State of Maharashtra
2. The Superintendent of Jail,
Harsul Jail, Aurangabad ...Respondents

AND

CRIMINAL WRIT PETITION NO. 1148 OF 2020

Saifan S/o Kondaji Kurne
age major, Convict No. 9053
R/o at present in Harsul Jail, Aurangabad ...Petitioner

VERSUS

1. The State of Maharashtra
2. The Superintendent of Jail,
Harsul Jail, Aurangabad ...Respondents

Mr. N.S. Ghanekar, Advocate for petitioners in both petitions.
Mr. P.K. Lakhotiya, Addl. Public Prosecutor for Respts./State

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

DATE : 13th October, 2020

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

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

2. Both the proceedings are filed for the relief of quashing of order of refusal of emergency parole, which can be granted under the Notification dated 8th May 2020. The respondents have refused emergency parole by giving reason that both the petitioners had not availed either parole or furlough on two occasions before the relevant date. No other reason is given. The record shows that both of them had availed furlough on one occasion and they returned back to the jail on that occasion. This Court had an occasion to interpret the condition given in the Notification dated 8th May 2020. This Court has laid down that only because on two occasions the prisoner had not availed either furlough or parole, emergency parole under the notification cannot be refused. This condition is there to ensure that prisoners will return to jail in time after the period of emergency parole is over. In the past, both the petitioners had returned to jail when the period of parole was over. This Court holds that the ground given in the order cannot sustain in law.

3. In the result, both the petitions are allowed. Order of

rejection of application in both the petitions for emergency parole is hereby quashed and set aside. The applications which were filed by both the petitioners for granting them emergency parole are hereby allowed. They are to be released on emergency parole within seven days with usual terms and conditions.

4. Rule made absolute in those terms.

Sd/-
(M.G. SEWLIKAR)
JUDGE

Sd/-
(T.V. NALAWADE)
JUDGE

Madkar