

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

CRIMINAL WRIT PETITION NO. 1246 OF 2020

Sakhubai w/o Bhairu Kajile C-9033

Age: Major, Occ. Nil,

R/o At present Harsul Prison,

Tq. & Dist. Aurangabad.

.. **Petitioner**

Versus

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

2. The Superintendent of the Central Prison,
Harsul, District Aurangabad.

.. **Respondents**

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Mrs. Sharada Chate, Advocate for the Petitioner

Mr. M.M. Nerlikar, APP for the Respondent-State.

...

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

DATE : 21.10.2020

ORAL JUDGMENT :- (Per: *T.V. Nalawade, J.*)

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

2. The present proceeding is filed to challenge the order made by respondents by which emergency parole is refused to the petitioner. The emergency parole is refused on the ground that the petitioner had not availed

either furlough or parole leave on any occasion in the past. No other reason is given. By way of precaution this Court ascertained as to whether a convict for offence punishable under Section 364 is barred from availing the benefit. In the Government notification dated 08.05.2020 under which the emergency parole is claimed there is no specific mention of this Section. However, in Rule 4 of the Prisons (Bombay Furlough and Parole) Rules also this category is not excepted and so there is no power to grant emergency parole to such prisoners. Otherwise the prisoner was eligible to get the furlough or regular parole as she has completed jail term of six years. Thus the order made by the respondents cannot sustain in law. In the result the following order is passed:

ORDER

- I) The Petition is allowed.
- II) The order of rejection of the emergency parole made by respondents is hereby quashed and set aside.
- III) The application made for emergency parole his hereby allowed.
- IV) The petitioner is to be released within seven (07) days on the usual terms and conditions.
- V) Rule made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]