

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

CRIMINAL WRIT PETITION NO. 1258 OF 2020

Adarsh S/o Gautam Wahgmare,
(His brother Akshay S/o Gautam Wahgmare,
permanent convict no.8952 of
Central Prison Aurangabad)
Age: 22 years, Occ: Agriculture & Student,
R/o Buddha Vihar, Ambedkarnagar, Nanded.

... **APPLICANT**

VERSUS

The State of Maharashtra,
Through Superintendent,
Harsul Prison, Aurangabad.

... **RESPONDENT**

...
Mr. Rupesh A. Jaiswal, Advocate for Petitioner.
Mr. S. G. Sangle, APP for Respondent / State.

...

**CORAM : T. V. NALAWADE &
SHRIKANT D. KULKARNI, JJ.**

DATE : 04th November, 2020.

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

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

imposed on the Petitioner for releasing him on emergency parole under the Government notification dated 8th May, 2020. The Petitioner is asked to give personal bond of Rs.10,000/-, one surety of Rs.20,000/- and surety can be relative and the second surety of Rs.20,000/-, but that surety should be independent, not relative. It is the contention of the Petitioner that he cannot afford to give two such sureties as surety is required to obtain solvency certificate. The learned counsel for Petitioner submitted on oral instructions that the Tahsildar, Nanded is asking the persons to deposit the specific amount of Rs.20,000/- for getting solvency certificate. If that is happening, that approach is not correct. Solvency certificate needs to be issued on the basis of property of the surety and for that there is a record like 7/12 extract, *Khata* extract or property card. As the Tahsildar is the revenue authority, he is in the position to make assessment of the value of the property and on that basis, he is expected to issue solvency certificate. If that is happening, that needs to be stopped and so this Court is directing the Registrar (Judicial) of this Court to send this order to the concerned Tahsildar.

3 There are many poor persons lodged in prison, who cannot afford to give solvent sureties. The purpose behind release of the prisoners under the emergency parole scheme is to see that they

do not get affected due to Covid-19 virus and their lives are saved. If the surety, which the prisoner cannot give, is asked, it is actually denying the benefit of the scheme to the Petitioner. So, this Court holds that the petition needs to be allowed to modify the condition of surety. The other conditions will remain there. In the result, the following order is passed:

ORDER

- I. The petition is allowed.
- II. The condition of surety imposed by the Respondent of giving two sureties of Rs.20,000/- each, is hereby quashed.
- III. The Petitioner is to give personal bond of Rs.10,000/- and one surety of Rs.20,000/-, which should be independent surety, not relative of the prisoner.
- IV. The other conditions will remain there.
- V. Copy of this order is to be sent to the Tahsildar, Nanded in view of the grievance raised by the learned counsel for Petitioner.
- VI. Rule is made absolute in those terms.

[SHRIKANT D. KULKARNI, J.]

[T. V. NALAWADE, J.]