

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1318 OF 2020

Gopal s/o Ramesh Barwal C-8578

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, Harsool
Dist. Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for the petitioner.

Mr. P.G. Borade, APP for both respondents,

WITH

CRIMINAL WRIT PETITION NO. 1217 OF 2020

Gopal s/o Ramesh Barwal C-8578

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, Harsool
Dist. Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for the petitioner.
Mr. P.G. Borade, APP for both respondents,

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**
DATE : 21st October, 2020.

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

1. Rule. Rule made returnable forthwith.
2. By consent, heard both the sides for final disposal.
3. It appears that due to oversight and due to present system of working like virtual hearing, the office has registered two proceedings on the basis of filing. The same petitioner is involved in both the proceedings and same order is challenged.
4. Petitioner had prayed for emergency parole under Government Notification dated 08.05.2020 and his application is rejected on the ground that he had availed furlough only on one occasion. The reason given is that as per the Government Notification he ought to have availed furlough or parole on two occasions and he ought to have returned to jail in time on both the occasions.

5. This Court has interpreted said condition in many decisions in similar matters and it is held that the said condition is only to ensure that the prisoner will return to jail in time when the period of parole is over. If the prisoner was otherwise eligible to get emergency parole and he had not availed furlough or parole in the past due to his personal reasons, that cannot come in his way to get the benefits of Government Notification dated 08.05.2020. This Court holds that the reason given cannot sustain in law. Writ Petition No. 1318/2020 is, therefore, allowed.

6. Order made by respondent rejecting emergency parole application of the applicant is quashed and set aside. Application filed by the petitioner for emergency parole stands allowed. Petitioner be released on usual terms and conditions within seven days from the date of this order. Rule made absolute in those terms.

7. In view of order passed today in Writ Petition No. 1318/2020, Writ Petition No. 1217/2020 is disposed of.

(M. G. SEWLIKAR)
Judge

dyb

(T.V. NALAWADE)
Judge