

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

CRIMINAL WRIT PETITION NO. 1325 OF 2020

Trimukh s/o Naryan Dhokre C-8760,
Age: Major, Occ. Nill, 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 District,
Dist:- Aurangabad.

... RESPONDENTS

...
Mrs. Sharda P. Chate, Advocate for Petitioner.
Mr. R. D. Sanap, APP for Respondents.

...

AND

CRIMINAL WRIT PETITION NO. 1326 OF 2020

Prabhakar S/o Ramdas Shinde,
Age: 34 Years, Occ. Labour,
R/o Kolegaonwadi,
Tq. Jafrabad, Dist. Jalna.

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Home Department,
Mantralaya, Mumbai – 32.

2. The Superintendent,
Aurangabad Central Prison,
Aurangabad.

... RESPONDENTS

...
Mr. M. D. Gitte, Advocate for Petitioner.
Mr. S. G. Sangle, APP for Respondents.

...

AND

CRIMINAL WRIT PETITION NO. 1328 OF 2020

Badri s/o Kashinath Shined C-8234,
Age: Major, Occ. Nill, 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 District,
Dist:- Aurangabad.

... RESPONDENTS

...
Mrs. Sharda P. Chate, Advocate for Petitioner.
Mr. K. S. Patil, APP for Respondents.

...

AND

CRIMINAL WRIT PETITION NO. 1336 OF 2020

1. Marimba s/o. Hanumant Ibatkar (C no.8644)
Age: 61 years, Occu: agriculture,
2. Chandrabai w/o Marimba Ibatkar (C no.9026),
Age: 56 years, Occu: household,

3. Nagnath s/o Marimba Ibatkar (C no.8792)
age: 21 years, occu: agriculture,
All above R/o. Karla (Kh), Ta. Biloli, Dist. Nanded
Presently under going sentence at Central Jail at
Harsul, Aurangabad.

... PETITIONERS

VERSUS

1. The State of Maharashtra through its,
Home Department,
Mantralaya, Government of Maharashtra,
Mumbai.
2. The Superintendent of Central Jail Harsul,
Aurangabad.

... RESPONDENTS

...

Mr. Satish A. Gaikwad, Advocate for Petitioners.
Mr. S. G. Sangle, APP for Respondents.

...

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.

2 These matters are filed to challenge the orders made of
rejection of emergency parole, which is permissible under the

Government notification dated 8th May, 2020. The ground given for rejection is that the Petitioner, prisoner has either not availed parole or furlough on any occasion or he has availed parole or furlough only on one occasion. In the Government notification, there is a condition that the prisoner ought to have availed parole or furlough on many occasions and atleast on last two occasions he ought to have returned to jail on his own in time. This Court has interpreted this condition and it is laid down that the condition is there to see that the prisoner returns to jail on his own when the parole period is over. It is laid down that if the prisoner was eligible to get furlough but he had not obtained that furlough leave, in that case, it cannot be presumed that the condition is not fulfilled by him. In view of these circumstances, this Court holds that the ground given for rejection of emergency parole cannot sustain in law. In the result, the following order is passed:

ORDER

- I. All the four petitions are allowed.
- II. The orders made by the Respondent of rejection of emergency parole, are hereby quashed and set aside.

- III. The applications made by prisoners for getting emergency parole under the Government notification dated 8th May, 2020, are hereby allowed.
- IV. The Petitioners are to be released on emergency parole under the aforesaid Government notification with usual terms and conditions and that is to be done within seven days from today.
- V. Rule is made absolute in those terms in all the petitions.

ndm

[SHRIKANT D. KULKARNI, J.]

[T. V. NALAWADE, J.]