

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

CRIMINAL WRIT PETITION NO. 1400 OF 2020

Nazmabi Sayed Ahmed ... Petitioner
C-8240, At present in Harsul Jail,
Aurangabad

VERSUS

- 1 The State of Maharashtra ... Respondents
2. The Superintendent of Central Prison,
Harsul, District Aurangabad.

Mr. N. S. Ghanekar, Advocate for the petitioner
Mr. A. B. Chate, A.P.P. for the respondents

CORAM : SUNIL P. DESHMUKH &
SHRIKANT D. KULKARNI, JJ.

DATE : 13th November, 2020

ORDER: (Per Shrikant D. Kulkarni, J.)

1. The Petitioner prays for quashing of impugned order dated 01.10.2020, passed by Respondent No. 2, whereby her application for seeking emergency parole leave has been rejected since she has not availed any parole / furlough leave so far, in past.

2. We have heard the learned Advocate for the Petitioner and the learned APP who has strenuously opposed this petition and prays that this petition be dismissed in view of the reasons set out in the impugned order.

3. We have perused the amendment dated 08.05.2020 thereby introducing Rule 19(1)(C) to the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959.

4. This Court has consistently taken a view that, the failure to seek leave on furlough or parole on two occasions prior to invoking Rule 19(1)(C), is not an embargo for considering the application for emergency parole under Rule 19(1)(C). We are also aware that the amendment was introduced to the 1959 Rules in peculiar circumstances in view of the Covid-19 Pandemic. The intention of the State is to de-congest the prisons in such peculiar circumstances.

5. In view of the above, this petition is allowed. The impugned order dated 01.10.2020 is quashed and set aside.

6. The Petitioner – Nazmabi Sayed Ahmed (C 8240) shall be released on emergency parole leave for a period of 45 days as per Rule 19(1)(C).

7. The petitioner shall be released from prison within seven (07) days by following the usual procedure and under conditions laid down in law.

8. We make it clear that the petitioner will have to report to the Prison Authorities on or before the 45th day and the petitioner shall not remain away from prison, even on the pretext that her application, if any, seeking extension of emergency parole is pending.

(SHRIKANT D. KULKARNI, J.)

(SUNIL P. DESHMUKH J.)