

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

14 . CRIMINAL WRIT PETITION NO.1401 OF 2020

Pandit S/o Hribhau Rathod,
Convict No. 8627, age major occupation Convict
R/o at present confined at Central Prison, Aurangabad
...Petitioner

VERSUS

The State of Maharashtra
Through : The Superintendent,
Central Prison, Aurangabad. ...Respondent.

16 . CRIMINAL WRIT PETITION NO.1406 OF 2020

Siddheshwar S/o Ramrao Chavan
Convict No. 9084, age major occupation Convict
R/o at present confined at Central Prison, Aurangabad
...Petitioner

VERSUS

The State of Maharashtra
Through : The Superintendent,
Central Prison, Aurangabad. ...Respondent.

17 . CRIMINAL WRIT PETITION NO. 1407 OF 2020

Vishwanath S/o Kundalik Pandhere
Convict No. 9172, age major occupation Convict
R/o at present confined at Central Prison, Aurangabad
...Petitioner

VERSUS

The State of Maharashtra
Through : The Superintendent,
Central Prison, Aurangabad. ...Respondent.

18 . CRIMINAL WRIT PETITION NO. 1408 OF 2020

Dharmraj S/o Tukaram Gaikwad, C- 9043
age major occupation nil
R/o Aurangabad Central Prison,
Aurangabad Tal. & Dist. Aurangabad ...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Secretary,
Home Department, State of Maharashtra,
Mantralaya, Mumbai.
2. The Superintendent,
Central Prison, Harsul, Tal. & Dist. Aurangabad ...Respondents.

20 . CRIMINAL WRIT PETITION NO. 1418 OF 2020

Santosh S/o Ashok Shardul @ Nakul, C- 8950
age major occupation nil R/o at present
Harsul Prison Tal. & Dist. Aurangabad ...Petitioner

VERSUS

1. The State of Maharashtra
Through its Home Department,
Mantralaya, Mumbai.
2. The Superintendent,
Central Prison, Harsul, Tal. & Dist. Aurangabad ...Respondents.

23 . CRIMINAL WRIT PETITION NO. 1491 OF 2020

Shivanand S/o Fakirappa Aadkar, Convict no. 321
age major occupation convict
R/o at present confined at Open Prison, Visapur
Taluka Shrigonda Dist. Ahmednaga ...Petitioner

VERSUS

The State of Maharashtra
Through : The Superintendent,
Open Prison, Visapur Tal. Shrigonda Dist. Ahmednagar.
...Respondent.

24 . CRIMINAL WRIT PETITION NO. 1492 OF 2020

Pravin S/o Tukaram Jogdand, Convict no. 318
age major occupation convict
R/o at present confined at Open Prison, Visapur
Taluka Shrigonda Dist. Ahmednaga ...Petitioner

VERSUS

The State of Maharashtra
Through : The Superintendent,
Open Prison, Visapur Taluka Shrigonda Dist. Ahmednagar.
...Respondent.

Mr. Rupesh Jaiswal, Advocate for petitioner in Cri.W.P. Nos. 1401/2020, 1406/2020, 1407/2020, 1491/2020 & 1492/2020
Mr. Ravindra Nirmal, Adv. for petitioner in Cri.W.P. No. 1408/2020
Mrs. Sharda P. Chate, Adv. for petitioner in Cri.W.P. No. 1418/2020
Mr. R.D. Sanap, Addl. Public Prosecutor for Respts./State in Cri.W.P. No. 1401/2020, 1408/2020, 1418/2020 & 1492/2020
Mr. S.G. Sangle, Addl. Public Prosecutor for Respt./State in Cri.W.P. No. 1406/2020
Mr. K.S. Patil, Addl. Public Prosecutor for Respt./State in Cri.W.P. No. 1407/2020
Mr. G.O. Wattamwar, Addl. Public Prosecutor for Respt./State in Cri.W.P. No. 1491/2020

CORAM : T.V. NALAWADE &

SHRIKANT D. KULKARNI, JJ.

DATE : 25th November, 2020

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

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

2. All the matters are filed to challegne the orders made by the respondents by which emergency parole which is permissible

under the Government Notification dated 8th May 2020, is refused. In these matters, the reason for refusal is given that they had not availed either parole or furlough even on single occasion. In some matters, reason is given that they have availed furlough only on one occasion. The report is produced and it shows that all of them had completed three years of jail term which is requirement to become eligible to get furlough or ordinary parole. There is no other reason given for refusal of the benefit. In other matters – Cri. Writ Petitions No. 1491/2020 and 1492/2020, the learned Addl. Public Prosecutor made a statement that the petitioners therein have also completed the jail term of more than three years and there is only aforesaid ground against them.

3. In Government Notification dated 8th May 2020, there is a condition that a prisoner ought to have been released on furlough or parole in the past and on last two occasions, he ought to have returned to the jail on his own in time. This Court has interpreted this condition and it is held that the condition is there to ensure that the prisoner returns to the jail on his own when parole period is over. If the prisoner was eligible to get furlough or ordinary parole but he had not availed furlough or parole in the past, this circumstance cannot come in his way to get the benefit of the Government Notification dated 8th May 2020. In view of these

circumstances, this Court holds that the orders made by the respondents cannot sustain in law. In the result, the following order.

ORDER

- I. All the petitions are allowed. The orders made by the respondents of refusal of emergency parole under the Government Notification dated 8th May 2020, are hereby quashed and set aside.
- II. Applications filed by the petitioners for emergency parole under the Government Notification dated 8th May 2020, are hereby allowed. They are to be released on emergency parole on usual terms and conditions, within seven days from the date of this order.
- III. Authenticated copy of this order is allowed to both the sides.
- IV. Rule made absolute in aforesaid terms.

Sd/-
(SHRIKANT D. KULKARNI)
JUDGE

Sd/-
(T.V. NALAWADE)
JUDGE