

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1453 OF 2020

Raosaheb s/o Maruti Nemane
age major, occ. Nil
r/o 8422, Harsul Jail,
Aurangabad

Petitioner

Versus

1. The State of Maharashtra
Through his Principal Secretary
Home Department, Mantralay
Mumbai 32.
 2. Deputy Inspector of Police (Prison)
Central Prison, Harsul
Aurangabad District Aurangabad.
 3. The Superintendent of Prison Central Prison
Harsul, Tq. & Dist. Aurangabad.
- Respondents

Mr. S.G. Bobde, Advocate for the petitioner.
Mr. R.B. Bagul, APP for all respondents.

WITH
CRIMINAL WRIT PETITION NO. 1472 OF 2020

Ranjeet s/o Haribhau Jadhav
age 32 years, occ. Labour
r/o Shingthala, Tq. Sailu
Dist. Parbhani

Petitioner

Versus

1. The State of Maharashtra
Through the Secretary
Department of Home
Maharashtra State, Mantralaya

Mumbai 32.

2. The Superintendent
Aurangabad Central Prison
Aurangabad, Dist. Aurangabad.

Respondents

Mr. S.J. Salunke, Advocate for the petitioner.

Mr. A.V. Deshmukh, APP for both the respondents.

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**

DATE : 1st December, 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. Both the proceedings are filed for relief of quashing of the order made by respondents by which, emergency parole which is permissible under State Government Notification dated 08.05.2020 is refused to the petitioners.
4. In both the petitions, reason given for refusal of emergency parole is that the present petitioners had either not availed furlough or parole in the past or had availed furlough only on

one occasion. Government Notification dated 08.05.2020 shows that there is condition that in the past the petitioner ought to have availed either furlough or parole and he ought to have returned to the jail on his own in time atleast on last two occasions. This Court has interpreted this condition. This Court has held that if the prisoner was otherwise eligible to get furlough but he had not availed furlough in the past, the circumstance that he had not availed furlough or parole in the past cannot come in his way to get the benefit of emergency parole under Government Notification dated 08.05.2020.

5. In the present matters, submissions made and the record shows that the petitioners in both the proceedings had completed more than three years of jail term on the relevant date. In the first case, the petitioner had availed furlough on one occasion and the in the second case, though the petitioner had completed seven years of jail term, he had not availed furlough or parole even on a single occasion. In view of the intention behind the notification dated 08.05.2020 and the interpretation made by this Court, this Court holds that the orders made by the respondents cannot sustain in law. In the result, both the petitions are allowed.

6. Orders made by respondent of rejection of emergency parole under Government Notification dated 08.05.2020 are hereby quashed and set aside. Applications filed by both the petitioners for emergency parole stand allowed. Petitioners are to be released on emergency parole under aforesaid Government Notification within seven days from today on usual terms and conditions. Rule made absolute in those terms.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge

dyb