

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

10. CRIMINAL WRIT PETITION NO.1484 OF 2020

Mahesh S/o Wasant Chilwante (C-8916)
age major occupation nil
R/o at present Harsul Prison,
Aurangabad Taluka and Dist. Aurangabad ...Petitioner

VERSUS

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

Mrs. Sharda P. Chate, Advocate for petitioner
Mr. Y.G. Gujarathi, Addl. Public Prosecutor for Respts./State

11. CRIMINAL WRIT PETITION NO.1496 OF 2020

Shaikh Abdul Gaffur S/o Shaikh Baba Miya (C-7211)
age major occupation nil
R/o at present Harsul Prison,
Aurangabad Taluka and Dist. Aurangabad ...Petitioner

VERSUS

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

Mrs. Sharda P. Chate, Advocate for petitioner
Mr. A.V. Deshmukh, Addl. Public Prosecutor for Respts./State

49. CRIMINAL WRIT PETITION NO.1544 OF 2020

Jacob S/o Nangini Kujverki (C-5095)
age major occupation convict
R/o at present confined at Open Prison,
Paithan Taluka Paithan Dist. Aurangabad ...Petitioner

VERSUS

The State of Maharashtra
Through :The Superintendent,
Open Prison, Paithan Dist. Aurangabad ...Respondent

Mr. Rupesh A. Jaiswal, Advocate for petitioner
Mr. Y.G. Gujarathi, Addl. Public Prosecutor for Respt./State

CORAM : T.V. NALAWADE &

M.G. SEWLIKAR, JJ.

DATE : 16th December, 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 these three proceedings are filed for the relief of quashing of the orders made by the respondents by which the relief of emergency parole, which is permissible under the State Government Notification dated 8th May 2020, is refused to them. The refusal is on the ground that they had not either availed parole or furlough or they had availed the parole or furlough only on one occasion, like in case of petitioner Jacob in Cri. W.P. No. 1544/2020. This ground is on the basis of the conditions given by the State

Government in the Notification dated 8th May 2020 that the prisoner ought to have availed either parole or furlough in the past and he ought to have returned to jail in time on last two occasions on his own. This Court has interpreted that condition and this Court has held that the condition is there to see that the prisoner returns to jail on his own when emergency parole period is over. No other ground is given for refusal. In view of these circumstances, this Court holds that the orders made by the respondents against the petitioners need to be quashed and set aside and the direction needs to be given to them to give the relief under the aforesaid Government Notification.

3. In the result, all the three petitions are allowed. The orders made by the respondents are hereby quashed and set aside. The applications, which were filed by the petitioners for emergency parole, stand allowed. The petitioners are to be released on emergency parole under the Government Notification dated 8th May 2020 on usual terms and conditions, within seven days from today.

4. Rule made absolute in those terms.

(M.G. SEWLIKAR)
JUDGE

(T.V. NALAWADE)
JUDGE