

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

LD-VC/CRIMINAL WRIT PETITION NO.768/2020

PETITIONER : Gowrdhan Budhaji Astekar,
Convict, No.C/104, Aged – Major, Occ. Nil,
Confined at Central Prison, Gadchiroli.

...VERSUS...

RESPONDENTS: 1. State of Maharashtra, through Secretary
Home Department, Mantralaya, Mumbai.

2. The Superintendent, Central Prison,
Nagpur.

Ms S.D. Wankhede, Advocate for petitioner
Shri S.J. Kadu, Addl. P.P. for respondents.

**CORAM : Z.A. HAQ AND
AVINASH G. GHAROTE, JJ.
DATE : 04/08/2020.**

ORAL JUDGMENT (PER : AVINASH G. GHAROTE, J.)

1. Heard Ms S.D. Wankhede, learned Advocate for the petitioner and Shri S.J. Kadu, learned Additional Public Prosecutor for the respondents.

2. At the outset, Ms Wankhede, learned Advocate for the petitioner seeks leave to amend the cause-title by substituting the

Superintendent, Central Prison, Gadchiroli in place of the existing respondent no.2.

3. Leave is granted. Amendment be carried out by tomorrow.

4. Heard. Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the parties.

5. By this petition, the petitioner is sought to be released on emergency parole for 45 days, in light of the notification dated 08/05/2020. The basic requirement of the notification dated 08/05/2020, is that on the previous two occasions when the prisoner is released on either furlough or parole, he should have reported back and surrendered on the due dates. The object behind this clearly appears to be to examine the prior conduct of the prisoner in returning back, voluntarily, in the time granted which would assure the authorities of his intention to surrender/return. Thus, the intention to surrender/return is material and a day's delay in doing so, would certainly not defer from the intention to surrender/return.

6. In the instant case, the position in respect of the furlough leave of the petitioner as submitted by the learned

Additional Public Prosecutor is that on first occasion the date of release was 04/05/2019 and the petitioner was required to surrender on 19/05/2019, on which date, he had surrendered and on the second occasion, the date of release was 16/03/2020 and the petitioner was to surrender on 14/04/2020, however, the petitioner had surrendered on 15/04/2020, i.e., a delay of a day.

7. As stated above, the intention to surrender/return must be manifest, which is obviously so in the present case as is apparent from the above.

8. Considering the above, the prayer made by the petitioner is accepted and the respondent no.2 is directed to release the petitioner on emergency parole for 45 days, as per Rule 19 (2) (C) of the Prisons (Bombay Furlough and Parole) Rules, 1959 on the conditions to be imposed by the Prison Authorities.

Rule is made absolute in the aforesaid terms.

JUDGE

JUDGE

Wadkar, P.S.

Shailendra
Wadkar

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Wadkar
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