

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

LD-VC-WRIT PETITION NO.494/2020

Vishal @ Sonu s/O Rajendra Shrivastav,
(In Jail),
Convict No. C-Central Prison, Nagpur**PETITIONER**

...V E R S U S...

The State of Maharashtra through
Superintendent of Prison,
Central Prison, Nagpur**RESPONDENT**

Mr. N.H. Samundre, Advocate for petitioner.
Mr. Shri T.A. Mirza, Additional Public Prosecutor for respondent

CORAM:- A.S. CHANDURKAR AND AMIT B. BORKAR, JJ.
DATED :- 14/08/2020

JUDGMENT (PER AMIT B. BORKAR J.)

1. Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.
2. **RULE.** Rule is made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.
3. The petitioner, by way of present petition, is challenging the order dated 25/06/2020 thereby rejecting parole leave of 45 days on the ground that the Notification dated 08/05/2020 is not applicable to the petitioner, as the petitioner has not returned back in time for more than two occasions.

4. The petitioner is convicted under the provisions of Sections 302 and 397 of the Indian Penal Code and is directed to suffer rigorous imprisonment for seven years and five years respectively.

5. It is undisputed that this is the first application of the petitioner for parole leave. The application which was filed by the petitioner before the respondent was based on Notification dated 08/05/2020. The said application was rejected by respondent stating that since the petitioner had not applied for parole earlier and the notification would be applicable to those prisoners who have returned back to prison in time.

6. Shri Samundre, learned counsel for the petitioner submitted that taking into consideration purport of the Notification dated 08/05/2020, it is not necessary that the prisoner should have applied two times before seeking benefits of Notification dated 08/05/2020. The learned counsel invited our attention to the orders passed by this Court in Criminal Writ Petition Nos. 370 of 2020 and 345 of 2020 and submitted that this Court in those judgments have granted benefit of notification dated 08/05/2020 to such persons, who have not earlier applied for parole leave and, therefore, similar relief ought to have been granted.

7. Shri T.A. Mirza, learned Additional Public Prosecutor objected for grant of relief on the ground that Notification is clear and nothing could be added to the said Notification nor any exception can be carved out of the said notification and therefore, prayed for dismissal of this petition.

8. Having gone through the Notification dated 08/05/2020 and after considering the orders passed by this Court in Criminal Writ Petition No. 370 of 2020 and Criminal Writ Petition No. 345

of 2020, we are satisfied that though the petitioner has applied for parole for the first time, the benefits of the Notification dated 08/05/2020 can be granted to the prisoner who has applied for parole for the first time and, therefore, we pass the following order.

ORDER

1. The petition is allowed.
2. The order dated 25/06/2020 passed by respondent No.1 is quashed and set aside.
3. The respondent is directed to release the petitioner on parole leave of 45 days, subject to imposing of usual conditions so as to secure the presence of the petitioner back to the prison after the parole leave is over.
9. With the above observation, the petition stands disposed of with no order as to cost.
10. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

JUDGE

J.Pethe

**Rohit
Apte**

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Rohit Apte
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