

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

CRIMINAL WRIT PETITION NO.730/2020

Tushar Mahesh Saujani

...Versus...

**State of Maharashtra, through Deputy Inspector General of Prison, Eastern
Region, Nagpur and another**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Raju Kadu, Advocate for petitioner
Shri T.A. Mirza, Addl. P.P. for respondents

**CORAM : Z. A. HAQ AND
AVINASH G. GHAROTE, JJ.**

DATE : 04/08/2020

1. Heard Shri Kadu, learned Advocate for the petitioner and Shri Mirza, learned Additional Public Prosecutor for the respondents.

2. By this petition, the petitioner, who is convicted for the offences punishable under Sections 302, 323, 504 and 506 of Indian Penal Code and is sentenced to undergo life imprisonment, has prayed for emergency parole for 45 days as per Rule 19 (2) (C) (ii) of the Prisons (Bombay Furlough and Parole) Rules, 1959.

3. The petitioner was released on furlough leave on 20/6/2020 and was required to surrender till 12/7/2020. The petitioner approached this Court by this petition filed on 13/7/2020 praying for emergency parole leave for 45 days. The petition was listed before this Court on 14/7/2020, on which date, it was directed that notice be issued to the respondents. On a prayer made on behalf of the petitioner, it was further ordered that the petitioner was permitted to overstay for one week. When the matter was listed on 21/7/2020, the learned Additional Public Prosecutor pointed out that the Rules of 1959 do not confer any power on the authority to extend the furlough leave beyond 28 days. The learned Advocate for the petitioner submitted that the petitioner was willing to surrender to Central Prison, Amravati, however, he was at Kandiwali, Mumbai and it was not possible for him to travel to Amravati in the present situation of pandemic. It transpired that the petitioner can surrender at Central Prison, Talaja and one week's time was granted to the petitioner to surrender. Today, it is submitted that the petitioner has not surrendered. The learned Advocate for the petitioner requested for time to file affidavit to point out the difficulties faced by the petitioner and the reason for not surrendering.

4. After examining the facts of the case, we are of the view that the petitioner is avoiding to surrender and is

staying out of prison unauthorizedly. The foundation of the amended Rule 19 (2) (C) of the Rules of 1959 is that the prisoner would be entitled for emergency parole leave, if he had surrendered on due date on the earlier occasions of release. The conduct of the petitioner is contrary to the essence of the amended Rule 19 (2) (C) of the Rules of 1959. Hence, we are not inclined to consider the prayer of the petitioner. The writ petition is dismissed.

5. The respondents are directed to take appropriate steps to arrest the petitioner. The period of overstay by the petitioner shall be treated as unauthorized and penal action be taken for that accordingly, as per law.

JUDGE

JUDGE

Wadkar

Shailendra
Wadkar

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by Shailendra
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Date: 2020.08.05
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