

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD.**

**CRIMINAL WRIT PETITION NO. 1 OF 2021**

Sahebrao Pralhad Ingole

**...Petitioner**

**Versus**

The State of Maharashtra & Anr.

**...Respondents**

.....

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

Shri. R. D. Sanap, APP for respondent nos. 1 and 2

.....

**CORAM : RAVINDRA V. GHUGE  
AND  
B. U. DEBADWAR, JJ.**

**DATE : 08<sup>th</sup> January, 2021**

**PER COURT : -**

1. By this petition, the petitioner prays for grant of emergency parole under Rule 19(1)(C) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959 (hereinafter referred to as “the said Act”). Contention is that, he has completed more than three years in prison and would be entitled for emergency parole keeping in view the Maharashtra Notification dated 08.05.2020 and the recommendations of the High Power Committee, State of Maharashtra.

2. Reliance is placed upon the following orders / judgments in support of his case : -

- a. The order dated 23.03.2020 passed by Hon'ble supreme Court of India in Suo Moto Writ Petition (C) No. 1 of 2020.
- b. Kavita V/s The State of Maharashtra  
Criminal Writ Petition No. 571 of 2020 dated 30.06.2020.
- c. Abdul Shakur V/s The State of Maharashtra  
Criminal Writ Petition No. 626 of 2020 dated 10.07.2020
- d. Rajendra Vs. State of Maharashtra  
Order dated 04.08.2020 in Cri. W. P. No. 760 of 2020

3. The learned Prosecutor submits that, the Notification dated 08.05.2020 requires no interpretation. There is a specific bar for entertaining the applications of prisoners who have been convicted for crimes under Special Acts.

4. We find from the notification dated 08.05.2020, that all such prisoners who have been convicted under the Special Act are barred from moving an application under Rule 19(1)(C) of the said Act. Nevertheless, they are at liberty to move an application for grant of bail under the provisions of the Code of Criminal Procedure, 1973. We have noted the last paragraph of the notification dated 08.05.2020, which reads thus: -

“2(C)(ii) For convicted prisoners whose maximum sentence is above 7 years shall on their application be appropriately considered for release on emergency parole by Superintendent

of Prison, if the convict has returned to prison on time on last 2 releases (whether on parole or furlough) for the period of 45 days or till such time that, the State government withdraws the Notification issued under the Epidemics Diseases Act, 1897, whichever is earlier. The initial period of 45 days shall stand extended periodically in blocks of 39 days each, till such time that the said Notification is in force (in the event the said Notification is not issued within the first 15 days). The convicted prisoners shall report to the concerned police station within whose jurisdiction they are residing, once in every 30 days.”

Provided that the aforesaid directions shall not apply to convicted prisoners convicted for serious economic offences or bank seams or offences under Special Acts other than IPC like MCOC, PMLA, MPID, NDPS, UAPA etc. (which provide for additional restrictions on grant of bail in addition to those under the Code of Criminal procedure, 1973 (2 of 1974) and also presently to foreign nationals and prisoners having their place of residence out of the State of Maharashtra.”

5. In view of the above, we have perused the facts of this case and we find that the present petitioner has been convicted u/s 302 r/w Section 34 of the IPC and is also sentenced to rigorous imprisonment for seven years u/s 363 r/w Section 34 of the IPC. It is significant to note that, he has been convicted under a Special Act, which is the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013.

6. Considering that the description of the Special Acts in the reproduced paragraph of the notification as above, is not exhaustive

since the word 'etc' has been used, we are of the view that this Act of 2013, will also be termed as a 'Special Act'.

7. As such, this Criminal Writ Petition is dismissed since the Petitioner is not entitled to emergency parole u/s 19(1)(C) of the said Act.

**[ B. U. DEBADWAR ]**  
**JUDGE**

**[ RAVINDRA V. GHUGE ]**  
**JUDGE**