

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

**CRIMINAL WRIT PETITION NO. 24 OF 2021**

Janabai Ramesh Pawar  
Age : Major, Occu : Nil,  
R/o. C-9270, Harsool Jail,  
Aurangabad.

**...Petitioner**

**Versus**

- 1] The State of Maharashtra  
Through its Principal Secretary,  
Home Department, Mantralaya,  
Mumbai-32.
- 2] The Deputy Inspector of Police (Prison),  
Central Prison, Harsool,  
Aurangabad District, Aurangabad.
- 3] The Superintendent of Prison,  
Central Prison Harsool,  
Tq. & Dist. Aurangabad.

**...Respondents**

.....  
Shri. M. M. Parghane, Advocate for the petitioner  
Shri. R. B. Bagul, APP for respondent/State  
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**WITH  
CRIMINAL WRIT PETITION NO. 43 OF 2021**

Aslam s/o Jamadar Ansari  
Age : Major, Occu : Nil,  
R/o. At present Paithan Open District Prison,  
Dist. Aurangabad.

**...Petitioner**

**Versus**

- 1] The State of Maharashtra  
Through its Home Department,  
Mantralaya, Mumbai.

2] The Superintendent of the Open Prison,  
Paithan, District, Aurangabad.

...Respondents

.....  
Mrs. Sharda P. Chate, Advocate for the petitioner  
Shri. M. M. Nerlikar, APP for respondent/State  
.....

WITH  
**CRIMINAL WRIT PETITION NO. 44 OF 2021**

Yogesh s/o Dagdu Mukne,  
Age : Major, Occu : Nil,  
R/o. At present Harsul Prison,  
Tq. & Dist. Aurangabad.

...Petitioner

**Versus**

1] The State of Maharashtra  
Through its Home Department,  
Mantralaya, Mumbai.

2] The Superintendent of the Open Prison  
at Paithan, District, Aurangabad.

...Respondents

.....  
Mrs. Sharda P. Chate, Advocate for the petitioner  
Shri. B. V. Virdhe, APP for respondent/State  
.....

WITH  
**CRIMINAL WRIT PETITION NO. 46 OF 2021**

Shaikh s/o Isa Shaikh Piran  
Age : Major, Occu : Nil,  
R/o. At present Paithan open Prison,  
Tq. & Dist. Aurangabad.

...Petitioner

**Versus**

1] The State of Maharashtra  
Through its Home Department,  
Mantralaya, Mumbai.

- 2] The Superintendent of the Paithan Open Prison  
at Aurangabad. **...Respondents**

.....  
Mrs. Sharda P. Chate, Advocate for the petitioner  
Shri. M. M. Nerlikar, APP for respondent/State  
.....

**CORAM : T. V. NALAWADE  
AND  
B. U. DEBADWAR, JJ.**

**DATE : 20<sup>th</sup> January, 2021**

**ORAL JUDGMENT [ *Per T. V. Nalawade, J.* ] : -**

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
2. All the proceedings are filed to challenge the orders passed by the respondents by which emergency parole is refused to the petitioners. The emergency parole is refused on the ground that they had not either availed parole or furlough in the past or they had availed parole or furlough only on one occasion. There is no other reason for rejection of emergency parole which can be granted under the State Government Notification dated 08.05.2020.
3. The submissions made and the particulars supplied by the learned APP show that, all the petitioners have completed the

requisite jail term i.e. the jail term of more than three years. They were eligible for consideration of granting emergency parole. The aforesaid ground given by respondents is not tenable and that is considered by this Court. In Government notification, there is a condition that, the prisoner ought to have availed parole or furlough in the past at least on two occasions. He ought to have returned to jail in time. This Court has held that, the said condition is there only to ensure that the prisoner will return to jail in time, if he is released on emergency parole. This Court has held that, if the prisoner was otherwise eligible to get emergency parole but he had not availed furlough or parole in the past, that circumstance cannot come in his way to get emergency parole under the aforesaid notification. In the result, the following order is passed.

#### **ORDER**

- (i) All the Criminal Writ Petitions are allowed.
- (ii) The orders passed by respondents rejecting the applications of the petitioners for emergency parole are quashed and set aside.
- (iii) The applications which were filed by the petitioners for emergency parole are hereby allowed. The petitioners are to be released on emergency parole on usual terms and conditions within seven days from today.

- (iv) In the impugned order challenged by Writ Petition No. 43 of 2021, there was one more condition to refuse the emergency parole that the petitioner is resident of other State. The said condition was there in the Government notification in the past. It appears that, due to that condition, the emergency parole was refused. Subsequently, the said condition has been removed by making amendment in the notification by the Government. This Court holds that, it is not desirable to issue direction to the petitioner-Aslam Jamadar Ansari to approach the Jail Authority again. This will only protract the things. As this Court is considering the right of the prisoner, the Court is passing the order in his favour.

4. Rule is made absolute in all the matters in the aforesaid terms.

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

**[ T. V. NALAWADE ]**  
**JUDGE**