

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

103. CRIMINAL WRIT PETITION NO.58 OF 2021

Namdev S/o Gyandev Jadhav (C-9273)
age major occupation nil
R/o Aurangabad Central Prison, Aurangabad
Taluka & Dist. Aurangabad

...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Secretary, Home Department,
State of Maharashtra, Mantralaya, Mumbai.
2. The Superintendent,
Central Prison, Harsul, Taluka & Dist. Aurangabad ...Respondents

Mr. Ravindra Nirmal, Advocate for petitioner

Mrs. V.N. Patil-Jadhav, Addl. Public Prosecutor for respondents/State

AND

104. CRIMINAL WRIT PETITION NO.59 OF 2021

Ambadas S/o Gyandev Jadhav (C-9274)
age major occupation nil
R/o Aurangabad Central Prison, Aurangabad
Taluka & Dist. Aurangabad

...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Secretary, Home Department,
State of Maharashtra, Mantralaya, Mumbai.
2. The Superintendent,
Central Prison, Harsul, Taluka & Dist. Aurangabad ...Respondents

Mr. Ravindra Nirmal, Advocate for petitioner

Mr. A.V. Deshmukh, Addl. Public Prosecutor for respondents/State

AND

105. CRIMINAL WRIT PETITION NO.60 OF 2021

Gyandev S/o Namdeo Jadhav (C-9275)
age major occupation nil
R/o Aurangabad Central Prison, Aurangabad
Taluka & Dist. Aurangabad

...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Secretary, Home Department,
State of Maharashtra, Mantralaya, Mumbai.
2. The Superintendent,
Central Prison, Harsul, Taluka & Dist. Aurangabad ...Respondents

Mr. Ravindra Nirmal, Advocate for petitioner

Mr. S.J. Salgare, Addl. Public Prosecutor for respondents/State

CORAM : T.V. NALAWADE &

M.G. SEWLIKAR, JJ.

DATE : 3rd February, 2021

J U D G M E N T (PER : T.V. NALAWADE, J.)

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. All the three proceedings are filed to challenge the order made by the respondents by which emergency parole, which is permissible under the State Government Notification dated 08/05/2020, is refused by the respondents. In respect of petitioner Namdev Gyandev Jadhav in Cri. Writ Petition No. 58/2021 reason is

given that he did not avail any kind of leave in the past. Submissions made and the record produced by the learned Addl. Public prosecutor show that he is convicted for offence punishable under Section 302 read with Section 34 of the Indian Penal Code and on the relevant date he had completed the jail term of four years and four months. In respect of petitioner Ambadas Gyandev Jadhav in Cri. Writ Petition No. 59/2021 reason for rejection is given as he did not avail any kind of leave in the past, the similar reason, and he is also convicted for the similar offence. Information supplied by the learned Addl. Public Prosecutor shows that on the relevant date, said petitioner Ambadas had completed the jail term of four years and four months. In respect of petitioner Gyandev Namdev Jadhav in Cri.Writ Petition No. 60/2021 the reason for rejection is the same and he had also completed four years and four months' jail term on the relevant date.

3. This Court had an occasion to consider the conditions given in the State Government Notification dated 08/05/2020. There is a condition that prisoner ought to have availed either parole or furlough leave in the past and on the last two occasions he ought to have returned to jail on his own. This Court has held that such a condition is there only to ensure that the prisoner will return

to jail on his own after parole period is over. This Court has held that if prisoner was otherwise entitled to get benefit of the notification, the circumstance that in the past he had not availed either parole or furlough cannot come in his way to get benefit of the scheme. In view of these circumstances, this Court holds that the orders made by the respondents cannot sustain in law. In the result, following order.

O R D E R

- (I) All the three proceedings are allowed.
- (II) The orders made against the petitioners by the respondents of rejection of parole/furlough are hereby quashed and set aside. The applications made by the petitioners for emergency parole under the aforesaid Government Notification are hereby allowed. All the three petitioners are to be released on emergency parole, within seven days, from today, on usual terms and conditions.
- (III) Rule made absolute in those terms.

(M.G. SEWLIKAR)
JUDGE

(T.V. NALAWADE)
JUDGE