

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 295 OF 2021

Madhukar s/o Shivram Khutade C-5305
Age 41, occ. Nil, R/o At present
Paithan Open Prison Dist. Aurangabad.

Petitioner

Versus

1. The State of Maharashtra
Through its Home Department
Mantralaya, Mumbai.
2. The Superintendent
of the Open Prison at Paithan
Dist. Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for the petitioner.
Mr. A.V. Deshmukh, APP for both the respondents.

WITH
CRIMINAL WRIT PETITION NO. 296 OF 2021

Ravi s/o Mangal Shelke C-5282
Age major, occ. Nil.
R/o at Present Harsl 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
Dist. Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for the petitioner.

Mrs. V.N. Patil Jadhav, APP for both the respondents.

WITH
CRIMINAL WRIT PETITION NO. 297 OF 2021

Pinku Premprakash Yadunath Sing C 5315
age major, occ. Nil,
R/o at present Harsu 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
Dist. Aurangabad.

Respondents

Mrs. Sharda Chate, Advocate for the petitioner.
Mr. R.B. Bagul, APP for both the respondents.

**CORAM : V.K. Jadhav &
M.G. Sewlikar, JJ.**

DATE : 8th March, 2021.

JUDGMENT : (Per M.G. Sewlikar, J.)

1. Rule. Rule made returnable forthwith.
2. By consent, heard both the sides for final disposal.
3. All these three petitions are being disposed of by common

order as the subject matter involved in these petitions is similar.

4. These three petitions have been filed for challenging the orders passed by the respondents vide which, emergency parole is refused to the petitioners.

5. Petitioners had filed applications for emergency parole under Government Notification dated 08.05.2020. In all these petitions, the reason for rejection of application for emergency parole is that the petitioners have not availed of parole or furlough even once in the past. Another ground assigned for rejection is that the capacity of the prison at Paithan is 500 whereas only 77 inmates are there in the said prison. Therefore, maintaining of social distance is possible. There is no manpower for performing agricultural operations and for tending to the needs of the animals.

6. In the matter of Kavita w/o Dilip Baviskar Vs. State of Maharashtra decided on 30.06.2020, this Court (Coram : T.V. Nalawade & M.G. Sewlikar, JJ) has interpreted the conditions mentioned in the aforestated Government Notification. This Court has held that the condition in the said Notification that the prisoner

ought to have availed either furlough or parole in the past and ought to have returned to jail in time on last two occasions is put to ensure that the prisoner will return to jail in time after the period of emergency parole is over. This Court has further held that the circumstance that the prisoner has not availed furlough or parole in the past cannot come in his way if he is otherwise eligible during that period to get furlough or parole.

7. The other grounds for rejection of parole cannot be sustained as the inmates who have been released on parole are likely to come back at any time. Therefore, the orders passed by the respondents cannot be sustained in law. Hence, the following order is passed :-

ORDER

- i) Petitions are allowed.
- ii) Impugned orders rejecting application of emergency parole are hereby quashed and set aside.
- iii) Applications filed by the petitioners for emergency parole under Government

Notification dated 08.05.2020 are allowed.

- iv) Petitioners be released on emergency parole on usual terms and conditions within seven days from today.
- v) Rule made absolute in those terms.

(M. G. SEWLIKAR)
Judge

(V. K. JADHAV)
Judge

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