

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 340 OF 2021

Raosaheb s/o Maruti Neman
Age major, Occ. Nil
R/o. 8422, Harsul Jail,
Aurangabad

...Petitioner

versus

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

...Respondents

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Mr. S. G. Bobade, advocate for the petitioner
Mr. A. V. Deshmukh, A.P.P. for respondents

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**CORAM : V. K. JADHAV AND
M. G. SEWLIKAR, JJ.
DATED : 9th MARCH, 2021**

ORAL JUDGMENT (PER M. G. SEWLIKAR, J.):

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.
2. The instant proceeding is initiated for relaxation of condition of furnishing two sureties while releasing the petitioner on parole.

3. The petitioner came to be released on parole by order of this Court dated 01.12.2020 on usual terms and conditions.

4. This Court received a letter from the petitioner, in which he made a grievance that he is not in a position to furnish two sureties as directed by the Competent Authority. Shri S. G. Bobade was therefore, appointed to represent the cause of the petitioner.

5. In terms of the provisions of Rule 24A of the Prisons (Maharashtra Furlough and Parole) Rules 1959 (Amended in 2018), the Competent Authority to approve parole may release the prisoner on furnishing a surety bond in Form A, a personal bond in Form B and the prisoner depositing a refundable deposit as decided by the Superintendent of the respective prison.

6. Learned A.P.P. Mr. Deshmukh brought to our notice the order of the Competent Authority directing the petitioner to furnish two sureties one of Rs.10,000/- and another of Rs.20,000/- for releasing the petitioner on parole. Learned A.P.P. also brought to our notice that earlier there was condition of furnishing two sureties and by virtue of the amendment in the year 2018, discretion is conferred on the Competent Authority to decide whether to accept one surety or two sureties.

7. The question of relaxation of condition had arisen in criminal

writ petition No. 1258 of 2020 decided by the Division Bench of this Court (Coram: T.V. Nalawade and Shrikant D. Kulkarni, JJ.) on 04.11.2020, in which while relaxing the condition, in para 3 this court held as under:-

“3. There are many poor persons lodged in prison, who cannot afford to give solvent sureties. The purpose behind release of the prisoners under the emergency parole scheme is to see that they do not get affected due to Covid-19 virus and their lives are saved. If the surety, which the prisoner cannot give, is asked, it is actually denying the benefit of the scheme to the petitioner. So, this court holds that the petition needs to be allowed to modify the condition of surety. The other conditions will remain there.”

8. We agree with the observations made in the said order. The notification dated 8.5.2020 makes it abundantly clear that the purpose of releasing the prisoner on parole is to meet the pandemic situation created by Covid-19. If the prisoner is required to comply such a condition, it will frustrate the very object of notification dated 8.5.2020. Therefore, we deem it appropriate to modify the condition of surety as follows:-

O R D E R

- I. The writ petition is allowed.
- II. The condition of surety imposed by the respondent to give two sureties is hereby quashed and set aside.

- III. The petitioner to give personal bond of Rs.10,000/- and one surety of Rs.20,000/- which should be independent surety, not relative to the prisoner.
 - IV. The other conditions will remain same.
 - V. Copy of this order is to be sent to the Tahsildar, Phulambri in view of the grievance raised by the learned counsel for the petitioner.
 - VI. Rule is made absolute in those terms.
9. The fees of appointed learned counsel Shri S.G. Bobade is quantified at Rs.4000/- (Rupees Four thousand only) to be paid by the High Court Legal Services Sub Committee, Aurangabad.

(M. G. SEWLIKAR, J.)

(V. K. JADHAV, J.)

rlj/