

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

CRIMINAL WRIT PETITION NO.545 OF 2021

AVDHOT BABU GIRI (C-8769)
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Petitioner : Through Jail
APP for Respondent : Shri R. V. Dasalkar

...

WITH

CRIMINAL WRIT PETITION NO.548 OF 2021

RAJU RANGNATH KOLTE (C-8131)
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Petitioner : Through Jail
APP for Respondent : Shri S. D. Ghayal

...

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

DATE : 06TH MAY, 2021

PER COURT :

Criminal Writ Petition No.545 OF 2021 :

1. The petitioner is a Convict No.8769, who has moved an application before this Court dated 05-04-2021 stating that though he was granted emergency parole on 17-10-2020 under Rule 19(1) (C) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, he could not enjoy the said leave as he could not find a

second surety. It is, therefore, prayed that the order granting emergency parole may be modified.

2. The learned prosecutor submits that normally the State would not oppose such applications. However, grant of such a request, in the face of the father of the convict being one surety, would lay down a wrong precedent.

3. We find from the record that the father of the convict has offered his surety. Both, the convict as well as his father appear to have desperately tried to secure a second surety. Since October, 2020 till April, 2021, in a span of seven months, the convict could not succeed in getting a second surety.

4. Considering the peculiar facts as recorded above, and upon noticing that for seven months the convict could not secure a second surety, the grant of emergency parole dated 15-10-2020, would result in a relief being granted only on paper.

5. As such, without laying down a precedent and with the observation that this order should not be cited as a precedent, since it is being passed in the peculiar facts and circumstances of the case, we allow this petition. The order dated 15-10-2020, passed in Criminal Writ Petition No.1189 of 2020, stands modified only to the extent of enabling the convict in tendering one surety of the

amount of Rs.20,000/- (Rupees Twenty Thousand Only). We grant 15 days time to the convict to tender one surety as noted above. The Jail Superintendent of the Harsul Central Jail, Aurangabad shall bring this order to the notice of the convict namely Avdhoot s/o Babu Giri and upon compliance of the same, shall release the convict on emergency parole leave.

Criminal Writ Petition No.548 OF 2021 :

6. The convict Raju Rangnath Kolte, Convict No.8131 has similarly moved an application before this Court. He has completed eight years in prison. There is no educated person in his family and his parents are aged. Though he succeeded in getting an order for emergency parole leave from this Court on 22-10-2020, he could not avail off the leave for the same reason that he cannot tender two sureties for an amount of Rs.20,000/- each. He prays that the order be modified, so as to enable him to tender one surety of the said amount.

7. For the reasons recorded hereinabove in Criminal Writ Petition No. 545 of 2021, this petition is also allowed. The Superintendent, Aurangabad Central Jail would release the convict on emergency parole leave on furnishing one surety of the amount of Rs.20,000/- (Rupees Twenty Thousand Only). The Jail

Superintendent shall bring this order to the notice of the petitioner convict and grant him emergency parole leave, within 15 days.

8. We make it clear that other requisite conditions as are prescribed, shall not be diluted and this order shall not be cited as a precedent.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)