

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

CRIMINAL WRIT PETITION NO.706 OF 2021

Shaikh Amjad S/o Shaikh Asad @ Mohsin,
Age, 33 years, Convict No. C-9182,
Occ : Nil r/o at present in
Harsul Jail, Aurangabad.

... Petitioner

Versus

1) The State of Maharashtra

2) The Superintendent of Jail,
Harsul Jail, Aurangabad.

... Respondents

...

Advocate for Petitioner : Mr. Sohail Subedar h/f Mr. D. S. Ingole
APP for Respondent Nos. 1 & 2 : Mr. R. V. Dasalkar

...

**CORAM : V. K. JADHAV AND
S. G. DIGE, JJ.**

DATE : 09th JULY, 2021

ORAL JUDGMENT [PER V. K. JADHAV, J.] :

1. Rule. Rule made returnable forthwith. Heard finally at the admission stage by consent of the parties.

2. The petitioner is the convict prisoner undergoing the sentence of life imprisonment. The petitioner / convict has undergone imprisonment to the extent of 3 years 26 days so far. The petitioner has been convicted for the offence punishable under Sections 201, 302, 364, 365 read with 34 of Indian Penal Code and

sentenced to suffer life imprisonment in connection with the charge under Section 302 of Indian Penal Code. The petitioner / convict has applied for emergency parole, however, the same has been rejected solely on the ground that in another case i.e. Sessions case No. 37 of 2015 the petitioner / convict came to be acquitted for offence punishable under Sections 363, 364, 303, 201, 120-B and 504, 109, 114 of Indian Penal Code and even though the State has preferred appeal bearing Criminal Appeal No. 709 of 2018, wherein the directions have been given for compliance of Section 390 of Code of Criminal Procedure, petitioner has failed to comply those directions issued by the Appellate Court in terms of Section 390 of Cr.P.C.

3. The learned counsel for petitioner submits that the petitioner is ready to comply with the directions in terms of Section 390 of Cr.P.C. given in pending Criminal Appeal No. 709 of 2018.

4. The learned APP submits that, in the event the petitioner comply with the directions in terms of the provisions of Section 390 of Cr.P.C. in connection with Criminal Appeal No. 709 of 2018, there is no hurdle, as such, to grant the emergency parole to the petitioner. We will not enter into the merits of contentions, since the learned counsel for petitioner / convict has made a statement, on instructions, before us that the petitioner is ready to

comply with the directions issued in terms of provisions of Section 390 of Cr.P.C. in connection with Criminal Appeal No. 709 of 2018 i.e. appeal preferred by the State against acquittal in connection with Sessions Case No. 37 of 2015.

5. In view of the same, we allow this writ petition directing the respondent authority to release the petitioner on COVID-19 emergency parole for 45 days, subject to the condition of compliance with the directions issued in terms of Section 390 of Cr.P.C. in connection with Criminal Appeal No. 709 of 2018 i.e. appeal preferred by the State against judgment and order of acquittal of petitioner / convict in connection with Session Case No. 37 of 2015.

6. Rule is made absolute in the above terms. Writ petition is accordingly disposed off.

(S. G. DIGE, J.)

(V. K. JADHAV, J.)