

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 797 OF 2021

Subhash Ganesh Gir
Convict No. 8597
R/o. At present Aurangabad Central Prison,
Aurangabad. ... Petitioner

versus

The State of Maharashtra ... Respondents

.....
Mr. S. J. Salgare, APP for the Respondent-State.
.....

**CORAM : V. K. JADHAV AND
S. G. DIGE, JJ.
DATED : 16th JULY, 2021**

PER COURT :

1. We have received this communication in writing from the convict through Aurangabad Central Prison, Aurangabad. The same is treated as a criminal writ petition.
2. Heard finally with consent at admission stage.
3. The petitioner is a life prisoner in connection with crime no. 83 of 2011 registered with Killari Police Station [Sessions Case No. 15 of 2012 decided on 08.03.2016 by the Additional Sessions Judge, Latur] for the offence punishable under Sections 302, 201 of IPC and the period undergone by him so far is 8 years 10 months and 28 days.

4. In terms of the amended Rule 19(1)(C)(ii) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, the Superintendent, Aurangabad Central Prison, Aurangabad has released the petitioner-convict on Covid Emergency parole. However, while granting him Covid Emergency parole, the Superintendent, Aurangabad Central Prison, Aurangabad has directed the petitioner-convict to furnish two sureties for an amount of Rs.20,000/- (Rupees Twenty thousand) each in addition to execution of personal bond.

5. The petitioner-convict has communicated that he is a poor person and due to financially weak position he is unable to furnish two sureties, as directed. The petitioner-convict is ready to furnish one surety for the like amount and thus prayed that the condition of furnishing two sureties as directed by the Superintendent, Aurangabad Central Prison, Aurangabad may be modified to that extent.

6. This Court (Coram : Ravindra V. Ghuge and B. U. Debadwar, JJ.) by order dated 16.03.2021 in Criminal Writ Petition No.257 of 2021 and the Division Bench (Coram : V. K. Jadhav and M. G. Sewlikar, JJ.) by order 09.03.2021 in Criminal Writ Petition No.340 of 2021 has taken a similar view and modified the condition to the extent of one surety instead of two sureties.

7. The learned APP submits that though the rule provides no specific requirement or guidelines or directions of furnishing two sureties by the convict while releasing him on Covid Emergency parole, however, the same is left at the discretion of the authority concerned. The learned APP appearing for the respondent-State has fairly accepted that it was a requirement of furnishing two sureties in the notification issued by the Home Department dated 26.08.2016, however, in the notification dated 16.04.2018 issued by the Home Department, Mumbai the said word "two sureties" are omitted and instead of that in Rule 24A, it is mentioned that "the parole may be granted to a prisoner subject to his executing a surety bond in Form A, a Personal Bond in Form B".

8. It thus appears that the Superintendent, Aurangabad Central Prison, Aurangabad in terms of the old notification dated 26.08.2016 has directed the convict to furnish two sureties while granting him Covid Emergency parole. The petitioner-convict is the poverty stricken person. He is in jail for a long period. It is thus difficult either for him or his relatives to make arrangement for two sureties. On earlier occasion, this court in the aforesaid two cases has relaxed the said

condition and directed the petitioner-convict to furnish one surety for an amount of Rs.20,000/- (Rupees Twenty Thousand Only) which should be an independent surety, not relative to the prisoner.

9. In view of the above, we are also inclined to take a similar view and decide this writ petition in the similar manner. Hence, the following order :

ORDER

- I. Writ Petition is hereby allowed.
- II. The impugned order is modified and the petitioner-convict is directed to execute a Personal Bond of Rs.10,000/- and one surety of Rs.20,000/- which should be an independent surety, not relative to the prisoner.
- III. Rest of the conditions in the impugned order remain as it is.
- IV. Writ Petition is accordingly disposed off.

(S. G. DIGE, J.)

(V. K. JADHAV, J.)