

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

CRIMINAL WRIT PETITION NO. 820 OF 2021

Balaji s/o Baliram Solonke
(Convict No.8589)
Age major, Occu. Nil
(At present lodged in Aurangabad
Central Prison, Harsool,
Aurangabad, Maharashtra)
Taluka Aurangabad,
District Aurangabad, Maharashtra

.. Petitioner

Versus

The State of Maharashtra
through the Principal Secretary,
Home Department,
Mantralaya, Mumbai 400 032 and ors.

.. Respondents

Mr Mohit Devada, Advocate (appointed) for the petitioner
Mr A.S. Shinde, APP for respondents/State

**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 6th August 2021

PER COURT :

1. Heard finally at admission stage by consent.
2. This petition is filed with a prayer that the impugned order dated 12.6.2021 passed by respondent no.4 be modified and direct the respondents to release the petitioner on COVID-19 Emergency parole on furnishing one surety under the provisions of the Prisons (Bombay Furlough and Parole) Rules, 1959.
3. In terms of the amended Rule 19(1)(C)(ii) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, the respondent No.4 herein has released the petitioner / convict on Covid Emergency parole. However, while

granting him Covid Emergency parole, the respondent / Superintendent of Central Prison, Aurangabad has directed the petitioner / convict to furnish two sureties for an amount of Rs.20,000/- (Rupees Twenty thousand only) in addition to the execution of the personal bond.

4. The learned counsel appearing for the petitioner / convict submits that the petitioner is poverty stricken person and due to financial weak position, he is unable to furnish two sureties as directed. The learned counsel appearing for the petitioner / convict submits that in addition to the same, due to outbreak of Covid-19, it is also not possible for the petitioner to furnish two sureties. There are travel restrictions inter-se districts and it is thus difficult for him to request the sureties to furnish the sureties for him by crossing the distance. The learned counsel for the petitioner submits that even though there is no provisions and requirements in the Rules directing the petitioner / convict to furnish two sureties while granting Covid Emergency parole, however, the Superintendent of Police of Jail has directed the petitioner / convict to furnish two sureties. The learned counsel for the petitioner submits that the petitioner / convict may be granted Covid Emergency parole by relaxing the stringent condition imposed by the respondent / Superintendent of Jail, Aurangabad directing him to furnish two sureties. The petitioner / convict is ready to furnish one surety for the like amount and in view of the same, the condition of furnishing two sureties as directed by the respondent / Superintendent of Jail may be modified to that extent.

5. The learned counsel for the petitioner / convict submits that on earlier occasion, 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 headed by (Coram : V. K. Jadhav and M. G. Sewlikar, JJ.) by order 09.03.2021 in Criminal Writ Petition No.340 of 2021 taken a similar view and modified the condition to the extent of one surety instead of two sureties.

6. The learned APP submits that though the rule provides no specific requirement or guidelines or directions of furnishing two sureties by the convicts while releasing the petitioner on Covid Emergency parole, however, the same is left at the discretion of the authority concerned. The learned APP appearing for 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 omitted the said word "two sureties" 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".

7. It thus appears that the respondent / Superintendent of Jail, 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 a poverty stricken person. He is in jail for a long period. It is thus difficult either for him or his relatives to make the arrangement of two sureties. Furthermore, there are aged parents in the house of the petitioner/convict. On earlier occasion, this court in the aforesaid two cases relied upon by the learned counsel appearing for the petitioners / convicts has relaxed the said condition and directed the petitioners / convicts 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.

8. 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) The Writ Petition is hereby allowed.
- (ii) The impugned order dated 12.6.2021 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 remained as it is.
- (iv) We quantify the fees for the appointed counsel at Rs.2,000/- (Rupees Two thousand only) to be paid by the High Court Legal Services, Sub-Committee, Aurangabad.
- (v) The Writ Petition is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV , J.)