

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

80 CRIMINAL WRIT PETITION NO.828 OF 2021

LAXMAN SUDAM TOGE THROUGH DEEPAK RAJENDRA DARADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. N. R. Thorat
APP for Respondents-State : Mr. S. J. Salgare
...

**CORAM: SUNIL P. DESHMUKH &
N. B. SURYAWANSHI, JJ.**

DATED: 6th SEPTEMBER, 2021.

P.C. :

The petitioner challenges order dated 27/07/2020 passed by respondent no.2 thereby rejecting the emergency parole to him. The ground given in the impugned order is that since the petitioner has not proceeded for any parole or furlough leave prior to this, he is not entitled to claim emergency parole under Rule 19(1)(c)(ii) of the Maharashtra Prison Rules.

2. The learned advocate for the petitioner by placing reliance on the judgment of this Court in ***Criminal Writ Petition No.156 of 2021*** and connected matters, submits that the impugned order is unsustainable.

3. In the decision rendered by this Court it is observed that the benefit of emergency parole cannot be denied to the prisoner only on the ground that he had not availed parole / furlough as per the conditions laid down in the notification. This Court, therefore, set aside the impugned order therein.

4. The said decision is squarely applicable in the facts of the present case. Therefore, we are inclined to allow the present petition. The impugned order, is therefore, quashed and set aside with direction to respondent no.2 to take fresh decision in the case of the petitioner on its own merit within a period of four weeks from the date of receipt of this order. With this direction, the writ petition is disposed of.

(N. B. SURYAWANSHI, J.) (SUNIL P. DESHMUKH, J.)

vsm/