

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

968 CRIMINAL WRIT PETITION NO. 921 OF 2021

YOUNUS S/O HUSSEIN PATHAN (C-272)
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioner : Ms. Sharda P. Chate
APP for Respondents : Mr. G. O. Wattamwar
.....

CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 06th OCTOBER, 2021

PER COURT:-

1. Heard.
2. The petitioner is a convict. The petitioner has undergone imprisonment of more than 12 years as on the date of filing of the criminal writ petition. The petitioner had applied for emergency parole leave and he was granted emergency parole leave with effect from 11.05.2020. While the petitioner was on emergency parole leave, on 30.10.2020, one N.C. bearing No. 912/2020 for the offence punishable under Sections 504 and 506 of IPC came to be registered against him in Jamkhed Police Station. Thus, by the impugned order dated 12.01.2021, respondent no.3 has cancelled

the emergency parole leave on the sole ground that during petitioner's release on emergency parole leave, the said N.C. came to be registered against him.

3. Learned counsel for the petitioner has brought to our notice the order passed by the Executive Magistrate, Jamkhed Taluka dated 14.01.2021. By referring the said N.C. 912/2020 along with Chapter Case No. 565/2021, learned Executive Magistrate, Jamkhed Taluka, in the said order dated 14.01.2021 has observed that after hearing the matter and inspecting all the relevant papers, it appears that there is no substance in the allegations on the basis on which the N.C. and the Chapter Case came to be registered.

4. Learned counsel for the petitioner has also brought to our notice that the petitioner has thereafter filed an application bringing to the notice of respondent no.3 the order passed by the Executive Magistrate. However, respondent no.3 has not reconsidered its order and not released the petitioner on emergency parole in terms of the order of release on emergency parole dated 11.05.2020.

5. We have carefully gone through the impugned order dated 12.01.2021. It appears that the petitioner though was on emergency parole leave with effect from 11.05.2020, by order dated 12.01.2021 his emergency parole leave has been cancelled solely for the reason of registration of N.C. No. 912/2020 at Jamkhed Police Station. Learned Executive Magistrate Jamkhed Taluka by order dated 14.01.2021 has specifically observed that there is no substance in the allegations which is the subject matter of the said N.C. 912/2020 read with Chapter Case No. 565/2021. The petitioner has also filed an application bringing to the notice of respondent no.3 about the order passed by the Executive Magistrate, however, respondent no.2 has rejected the said application by order dated 19.05.2021. In view of the same, the impugned order does not survive. The petitioner shall be released on emergency parole leave in terms of the emergency parole granted to him with effect from 11.05.2020. Hence the following order:

ORDER

I. The criminal writ petition is hereby allowed.

II. The impugned order dated 12.01.2021 passed by respondent no.3 i.e. the Superintendent, Visapur Open District Prison, District Ahmednagar is hereby quashed and set aside.

III. The order dated 19.05.2021 passed by respondent no.3 i.e. the Superintendent, Visapur Open District Prison, District Ahmednagar is also quashed and set aside.

IV. The petitioner shall be released on emergency parole leave in terms of the earlier order dated 11.05.2020.

V. The criminal writ petition is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)