

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

20. CRIMINAL WRIT PETITION NO. 1575 OF 2020

Sangita W/o Vilas Avadh (C-9070),
age 39 years, occupation nil
R/o at present in Harsul Jail, Aurangabad ...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Public Prosecutor,
High Court of Judicature at Bombay,
Bench at Aurangabad
2. The Superintendent of Jail
Harsul Jail, Aurangabad ...Respondents

*Mr. Dhanraj S. Ingole, Advocate, h/f. Ms. Varsha S. Ghanekar,
Advocate for petitioner.*
Mrs. V.N. Patil-Jadhav, Addl. Public Prosecutor for Respts. /State

AND

21. CRIMINAL WRIT PETITION NO. 1617 OF 2020

Gajanan S/o Hanumantu Chincholkar (C-8949)
age major occupation nil
R/o at present Harsul Prison
Taluka & Dit. Aurangabad ...Petitioner

VERSUS

1. The State of Maharashtra
Through its Home Department,
Mantralaya, Mumbai.
2. The Superintendent,
Central Prison, Harsul District Aurangabad ...Respondents

Mrs. Sharda P. Chate, Advocate for petitioner.
Mr. B.V. Virdhe, Addl. Public Prosecutor for Respts./State

**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**

DATE : 13th January, 2021

ORAL JUDGMENT (PER : T.V. NALAWADE, J.) :

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. Both the proceedings are filed to challenge the orders made by the respondents by which emergency parole is refused to the petitioners. Emergency parole to the petitioner in Cri. Writ Petition No. 1617/2020 is refused on the ground that the petitioner was released on furlough only on one occasion and as he has not availed furlough or parole on two occasions, he cannot be given benefit of the Government Notification dated 8th May 2020. In the second proceeding – Cri. W.P. No. 1575/2020 reason for refusal of furlough or parole is given that the petitioner had not availed either parole or furlough even on single occasion.

3. The submissions made today show that both the petitioners have completed the jail term of more than four years six months. This Court had an occasion to consider and interpret the Government Notification dated 8th May 2020. There is a condition in the notification that a prisoner ought to have availed either parole

or furlough in the past and at least on last two occasions and he ought to have returned to jail on his own. This Court has held that such condition is there to ensure that the prisoner will return to jail in time on his own when the parole period is over. This Court has further held that if a prisoner was otherwise eligible to get emergency parole under this notification then the circumstance that in the past he had not availed furlough or parole, cannot come in his way to get benefit of the notification. This Court holds that the orders made by the respondents cannot sustain in law. In the result, following order.

O R D E R

- I) Both the petitions are allowed. Orders made by the respondents are hereby quashed and set aside. The petitioners are to be released on emergency parole under the Government Notification dated 8th May 2020 on usual terms and conditions within seven days from today.
- II. Rule made absolute in aforesaid terms.
- III. Authenticated copy of the order is allowed.

Sd/-
(M.G. SEWLIKAR)
JUDGE

Sd/-
(T.V. NALAWADE)
JUDGE