

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1620 OF 2020

Thakuba s/o Tukaram Bhagwat C-8350
age major, occ. nil
r/o At Present Harsul prison
Tq. & Dist. Aurangabad.

Petitioner

Versus

1. The State of Maharashtra
Through its Home Department
Mantralaya, Mumbai.
2. The Superintendent
of the Central Prison, Harsool
Dist. Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for petitioner.
Mr. A.V. Deshmukh, APP for both respondents.

WITH
CRIMINAL WRIT PETITION NO. 1623 OF 2020

Bharat s/o Babulal Gulge 5338
age major, occ. nil
r/o At present Harsul Prison
Tq. & Dist. Aurangabad.

Petitioner

Versus

1. The State of Maharashtra
Through its Home Department
Mantralaya, Mumbai.
2. The Superintendent
of the open prison at Paithan
Dist. Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for petitioner.
Mr. B.V. Virdhe, APP for both respondents.

WITH
CRIMINAL WRIT PETITION NO. 1624 OF 2020

Hariomdash s/o Govinddas Bainade C-9096
age major, occ. nil
r/o At present Harsul Prison
Tq. & Dist. Aurangabad

Petitioner

Versus

1. The State of Maharashtra
Through its Home Department
Mantralaya, Mumbai.
2. The Superintendent
of the Central Prison, Harsool
Dist. Aurangabad.

Respondents

Mrs. S.P. Chate, Advocate for petitioner.
Mr. A.V. Deshmukh, APP for both respondents.

CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.

DATE : 12th January, 2021.

JUDGMENT : (Per T.V. Nalawade, J.)

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

3. All the three matters are filed to challenge the orders made by respondents by which emergency parole is refused to the petitioners/prisoners. Petitioners had filed applications for emergency parole under State Government Notification dated 8th May, 2020. The reason given for rejection is that the petitioner in Criminal Writ Petition No. 1620/2020 had availed furlough on one occasion and not on two occasions which is a requirement of aforesaid notification. Applications of petitioners in Criminal Writ Petition No. 1623/2020 and Criminal Writ Petition No. 1624/2020 are rejected on the ground that they had not availed either furlough or parole in the past.

4. In the matter of Kavita w/o Dilip Baviskar Vs. State of Maharashtra Decided on 30.06.2020, this Court has interpreted the conditions given in the aforesaid Government notification. This Court has held that the condition that the prisoner ought to have availed either furlough or parole in the past and he ought to have returned to jail in time on last two occasions is there to ensure that the prisoner will return to jail on his own in time after emergency parole period is over. This Court has further held that the circumstance that the prisoner had not availed furlough or parole in

the past cannot come in his way if he was otherwise eligible during that period to get furlough or parole. In view of this interpretation, this Court holds that the orders made by the respondents cannot sustain in law. In the result, following order is passed :-

ORDER

1. All the three petitions are allowed.
2. Impugned orders rejecting emergency parole are hereby quashed and set aside.
3. Applications filed by petitioners for emergency parole under Government Notification dated 8th May, 2020, are hereby allowed.
4. Petitioners be released on emergency parole on usual terms and conditions within seven days from today.
5. Rule made absolute in those terms.
6. Authenticated copy of the order is allowed to both the sides.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge