

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1626 OF 2020

Navshad @ Naishad S/o Makrani Batla,
 Convict No. 323,
 Age : 30 years, Occ. Convict,
 R/o: At present confined
 at Open Prison Visapur, Tal. Shrigondha,
 Dist. Ahmednagar.

... PETITIONER

V E R S U S

The State of Maharashtra,
 Through Superintendent,
 Open Prison Visapur, Tal Shrigondha,
 Dist. Ahmednagar.

...RESPONDENT

...

Mr. Rupesh a. Jaiswal, Advocate for petitioner
 Mr. M.M. Nerlikar, APP for respondent- State

...

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

DATE : 5th JANUARY, 2021

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

1. Rule. Rule made returnable forthwith. With consent heard both the sides for final disposal.
2. The present proceeding is filed to challenge the order made by respondent by which emergency parole, which is permissible under State Government Notification dated 08-05-2020 is refused. The application is rejected on the ground that till the date of application the petitioner had not at all availed either furlough or parole. He was behind bar for more than seven years on the relevant date. In Government Notification dated 08-05-2020, there is condition for getting benefit of scheme and it shows that in the past prisoner ought to have availed either furlough or parole and on last two occasions, he ought to have returned to jail on his own in time.

3. This Court had occasion to consider and interpret the aforesaid condition from the Government Notification in *Criminal Writ Petition No. 571 of 2020 (Kavita W/o Dilip Baviskar (Dilip S/o Kishor Baviskar) Versus The State of Maharashtra, decided on 30th June, 2020*. This Court has held that aforesaid condition is there to ensure that the prisoner will return to jail on his own after parole period is over. This Court has held that if prisoner was otherwise eligible to get benefit of the scheme as per rules and if he had completed three years jail term, if he is life convict then benefit needs to be given to him. This Court holds that the relief claimed by the petitioner-prisoner needs to be granted. In view of such interpretation, this Court holds that the order of rejection of emergency parole by respondent cannot sustain in law.

4. In the result, the Criminal Writ Petition is allowed. The order made by respondent refusing the emergency parole to the petitioner is hereby quashed and set aside. The application, which is filed for emergency parole by the petitioner is hereby allowed. The respondent is hereby directed to release the petitioner-prisoner on emergency parole in view of Government Notification dated 08-05-2020 subject to usual terms and conditions, within seven days from the date of receipt of this order. Rule is made absolute in above terms.

5. The Criminal Writ Petition stands disposed of accordingly. Authenticated copy is allowed to both the sides.

[M.G. SEWLIKAR]
JUDGE

MTK

[T. V. NALAWADE]
JUDGE