

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1694 OF 2020

Sunil s/o Omprakash Boatt C-5287
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
Dist. Aurangabad.

Respondents

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

WITH
CRIMINAL WRIT PETITION NO. 1702 OF 2020

Riyaz s/o Bashumiyan Shaikh
C-8749, Occ. Nil
r/o at present in Harsul Jail
Aurangabad.

Petitioner

Versus

1. The State of Maharashtra
2. The Superintendent of Jail
Harsul Jail, Aurangabad

Respondents

Mr. Sohail Subhedar, Advocate holding for Mr. N.S. Ghanekar,
Advocate for petitioner.

Mr. R.B Bagul, APP for both respondents.

WITH
CRIMINAL WRIT PETITION NO. 1710 OF 2020

Rajkumar s/o Omprakash Jailswal C-5312
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
Dist. Aurangabad.

Respondents

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

WITH
CRIMINAL WRIT PETITION NO. 1727 OF 2020

Hanumant s/o Chandrakant Pawar C-5277
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
Dist. Aurangabad.

Respondents

Mrs.S.P. Chate, Advocate for petitioner.
Mrs. V.N. Patil Jadhav, APP for both respondents.

WITH
CRIMINAL WRIT PETITION NO. 1728 OF 2020

Moh. s/o Shafik Quadri Moh. Raffik Quadri
C-9206, 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
Dist. Aurangabad.

Respondents

Mrs.S.P. Chate, Advocate for petitioner.
Mr. G.O.Wattamwar, APP for both respondents.

WITH
CRIMINAL WRIT PETITION NO. 1729 OF 2020

Sanjay Pandurang Gaikwad C-8923
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
Dist. Aurangabad.

Respondents

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

WITH
CRIMINAL WRIT PETITION NO. 7 OF 2021

Sambhaji s/o Maroti Sakhre
age 41 years, occ. Nil
Convict accused No. C08926
r/o At present is confined in
Central Prison Aurangabad.

Petitioner

Versus

The State of Maharashtra
Through Jail Superintendent
Central Prison, Aurangabad.

Respondent

Mr. M.P. Kale, Advocate for petitioner.
Mr. A.V. Deshmukh , APP for respondent.

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

DATE : 18th 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 proceedings are filed to challenge the orders made

by respondent by which emergency parole which is permissible under Government Notification dated 08.05.2020 is refused to the petitioners-prisoners. In some proceedings ground given for rejection is that the prisoner has not availed either furlough or parole on any occasion in the past and in some proceedings reason is given that the prisoner had availed either parole or furlough only on one occasion. There is condition in Government Notification dated 08.05.2020 that the prisoner ought to have availed furlough or parole in the past and, on last two occasions, he ought to have returned to jail on his own in time.

4. This Court has interpreted this condition in Government Notification dated 08.05.2020 in many matters including Criminal Writ Petition No. 571/2020 Kavita w/o Dilip Baviskar Vs. State of Maharashtra decided on 30.06.2020 and held that the condition is just to ensure that the prisoner will return to jail in time after parole period is over. This Court has held that if the prisoner was otherwise eligible to get emergency parole, it cannot be refused to him on the ground that he had not availed furlough or parole in the past as per the aforesaid notification.

5. In the present matter, particulars of each of the prisoners are given by learned APP to show that they had completed jail term of atleast three years on the relevant date. Thus, they were eligible for consideration as there is no other ground for rejection. In view of these circumstances, this Court holds that the orders made against the petitioners cannot sustain in law.

6. In the result, all the petitions are allowed. Orders made against petitioners rejecting emergency parole are hereby quashed and set aside. Applications which were filed by the petitioners for emergency parole under Government Notification dated 08.05.2020 stand allowed. All the petitioners be released on emergency parole under Government Notification dated 08.05.2020 within seven days from today on usual terms and conditions. Rule made absolute in all the petitions.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge

dyb