

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

CRIMINAL WRIT PETITION NO. 1313 OF 2021

Hakkani Makdum Pathan (C-8973)

...Petitioner

Versus

1. The State of Maharashtra

2. The Superintendent, Harsool Central Prison,
Aurangabad.

...Respondents

.....
Mr. S. P. Deshmukh, APP for respondents / State

.....

**CORAM : V. K. JADHAV &
SANDIPKUMAR C. MORE, JJ.
DATE : NOVEMBER 15, 2021**

PER COURT : -

1. We have received this communication in writing from the convict through Aurangabad Central Prison, Aurangabad. The same is treated as a criminal writ petition.

2. Heard. Issue notice to the respondents, returnable forthwith. The learned APP waives notice for respondents-State.

3. The petitioner is a life convict in connection with the crime/case and the details of his conviction and the period undergone by him till this date is mentioned in the following tabular form :

Sr. No.	Name	Convict No.	Period
1.	Hakkani Makdum Pathan	C-8973	05 Years 06 Months and 18 Days

4. In terms of the amended Rule 19(1)(C)(ii) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, respondent No.2 herein has released the petitioner/convict on Covid Emergency parole. However, while granting him Covid Emergency parole, respondent no. 2/Superintendent of Central Prison, Aurangabad has directed the petitioner/convict to furnish two sureties for an amount of Rs.20,000/- (Rupees Twenty Thousand only) in addition to the execution of the personal bond.

5. The convict has communicated that he is a poor person and due to financially weak position he is unable to furnish two sureties, as directed. The petitioner/convict is ready to furnish one surety for the like amount and thus prayed that the condition of furnishing two sureties as directed by the respondent no.2/Superintendent of Jail may be modified to that extent.

6. This Court (Coram : Ravindra V. Ghuge and B. U. Debadwar, JJ.) by order dated 16.03.2021 in Criminal Writ Petition No.257 of 2021 and the Division Bench headed by

(Coram : V. K. Jadhav and M. G. Sewlikar, JJ.) by order 09.03.2021 in Criminal Writ Petition No.340 of 2021 taken a similar view and modified the condition to the extent of one surety instead of two sureties.

7. The learned APP submits that though the rule provides no specific requirement or guidelines or directions of furnishing two sureties by the convict while releasing him on Covid Emergency parole, however, the same is left at the discretion of the authority concerned. The learned APP appearing for respondent-State has fairly accepted that it was a requirement of furnishing two sureties in the notification issued by the Home Department dated 26.08.2016, however, in the notification dated 16.04.2018 issued by the Home Department, Mumbai omitted the said word "two sureties" and instead of that in Rule 24A, it is mentioned that "the parole may be granted to a prisoner subject to his executing a surety bond in Form A, a Personal Bond in Form B".

8. It thus appears that respondent no.2/Superintendent of Jail, Aurangabad in terms of the old notification dated 26.08.2016 has directed the convict to furnish two sureties while granting him Covid Emergency parole. The petitioner/convict is the poverty stricken person. He is in jail for a long period. It is thus difficult

either for him or his relatives to make the arrangement of two sureties. Furthermore, in case of the petitioner/convict there are only aged parents in the house. On earlier occasion, this court in the aforesaid two cases has relaxed the said condition and directed the petitioner/convict to furnish one surety for an amount of Rs.20,000/- (Rupees Twenty Thousand Only) which should be an independent surety, not relative to the prisoner.

9. The petitioner/convict is a poor person and it is not possible for him or his relative to make the arrangement of two sureties.

10. In Criminal Writ Petition Nos. 630 of 2021, 631 of 2021, 632 of 2021, 633 of 2021 and 634 of 2021 this Court has relaxed the said condition and directed the petitioner/convict to furnish one surety for an amount of Rs.20,000/-, which should be an independent surety, not relative to the prisoner.

11. In view of the above, we are also inclined to take a similar view and decide this writ petition in the similar manner. Hence, the following order :

ORDER

(i) Writ Petition is hereby allowed.

- (ii) The impugned order is modified and the petitioner/convict is directed to execute a Personal Bond of Rs.10,000/- (Ten Thousand) and one surety of Rs.20,000/- (Twenty Thousand) which should be an independent surety, not relative to the prisoner.
- (iii) Rest of the conditions in the impugned order remained as it is.
- (iv) Writ Petition is accordingly disposed off.

[SANDIPKUMAR C. MORE]
JUDGE

[V. K. JADHAV]
JUDGE