

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2090 OF 2021

Narendra s/o Lalmani Giri : Petitioner.
Versus
State of Maharashtra : Respondents.

Mr. Rupesh Jaiswal for the Petitioner.
Smt. A S Pai, APP for the Respondent/State.

CORAM : S. S. SHINDE,
N. J. JAMADAR, JJ

DATE : 24th JUNE 2021

P.C.

1 Heard the learned counsel appearing for the Petitioner and the learned APP appearing for the Respondent/State.

2 The learned APP, on instructions of Mr. Indulkar, the Superintendent of Kolhapur Central Prison, Kalamba, Kolhapur, submits that the said authority is ready to consider the application of the Petitioner afresh in view of the change in policy.

3 The learned counsel appearing for the Petitioner submits that the prayer of the Petitioner to release him on Covid-19 parole has been turned

down on unsustainable ground. He submits that the Petitioner has undergone almost 14 years of imprisonment and therefore the Petition deserves to be allowed.

4 Upon appreciation of the rival contentions and perusal of the grounds taken in the Petition as also the annexures thereto and the reasons assigned in the impugned order, we are of the opinion that the impugned order cannot be sustained. The Petitioner's prayer to release him on Covid-19 parole is rejected only on the ground that in the past he was released only once and not twice as required by the notification dated 08th May 2020 issued by the State Government. The issue raised in this Petition is no more res-integra. The Division Bench of this Court in the case of *Kavita w/o Dilip Baviskar vs. The State of Maharashtra*¹ has held that merely because a convict is not released twice in the past on furlough or parole, is not a ground to reject his prayer for releasing him on Covid-19 parole.

5 In that view of the matter, the impugned order is quashed and set aside. The Petitioner is given liberty to apply afresh to the concerned Authority. In case such an application is filed by the Petitioner, the concerned Authority is directed to decide the same within a period of one week from filing such an application. However, we make it clear that while considering the fresh application filed by the Petitioner, the concerned authority shall not reject the

¹ Criminal Writ Petition No.571/2020 (Aurangabad Bench)

said application of the Petitioner on the same grounds which are mentioned in the impugned order. With the above observations, the writ petition is partly allowed and the same stands disposed of.

6 All concerned parties to act upon an ordinary copy of this order duly authenticated by the Court Sheristedar.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]