

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 535 OF 2021**

Kishor Popat Devare

..... Petitioner.

V/s

The State of Maharashtra

..... Respondent.

Mr. Rupesh Bobade, appointed advocate for the Petitioner **(Absent)**.
Mr. Deepak Thakre, PP a/w Mr. F. R. Shaikh, APP for the State.

**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**

DATE: APRIL 29, 2021

P.C.:-

1] The advocate who is appointed for the Petitioner is not present.

In view of the emergency, Petition is taken up for hearing forthwith.

2] Being aggrieved by the impugned order dated 28th September 2020 passed by the Superintendent, Nashik Road Central Prison, Nashik, this Petition is filed by the Petitioner.

3] The learned APP has placed on record the report submitted by the Superintendent, Nashik Road Central Prison, Nashik. Perused the

report.

4] Heard the learned APP appearing for the State.

5] Upon perusal of the impugned order, it appears that the application filed by the Petitioner to release him on emergency covid parole has been rejected on the ground that the Petitioner was never released on furlough/parole.

6] This Court in number of Writ Petitions has held that merely because the convict was not released earlier on parole/furlough cannot be a ground to turn down the prayer of the convict to release him on emergency covid parole.

7] In our opinion, the order impugned cannot be sustained and therefore the same is quashed and set aside.

8] Petitioner is given an opportunity to file a fresh application within one week. If such an application is filed by the Petitioner before the concerned Respondents/Authorities, the said Authorities to decide

such application as expeditiously as possible, however, within two weeks from filing of such application and communicate the said decision to the Petitioner.

9] Petition is partly allowed in the above terms and disposed of.

10] Registry shall communicate this order to the Superintendent, Nashik Road Central Prison, Nashik. In addition to the same, the learned APP shall also send a copy of this order to the Superintendent, Nashik Road Central Prison, Nashik.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)