

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 2971 OF 2021

Vasant P. Sonavane

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. M.S. Mulla i/b. Manas Gawankar, Advocate appointed through
Legal Aid for the Petitioner

Ms. A.S. Pai, APP for the Respondent - State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 18 NOVEMBER 2021

P.C. :-

The Petitioner has challenged the rejection of his
Emergency (Covid-19) Parole by the Respondent.

2. The impugned order dated 19 June 2020 rejects the
application of the Petitioner on the ground that the Petitioner has
not been granted parole or furlough earlier. This ground cannot be
sustained in the light of the order passed by the Division Bench of
this Court in the case of *Roshan Ali Din Mohmed Mukhiya Shaikh
vs. State of Maharashtra*¹ wherein it was held that such a condition
is not warranted as per Rule 19(1)(C) of the Maharashtra Prisons
(Mumbai Furlough and Parole) Rules, 1959.

¹ Cri.WP. 2115/2021 dtd. 28 October 2021

3. The learned Public Prosecutor has placed on record subsequent order passed by the Respondent on 24 June 2021 and submits that even though the order impugned in this Petition is set aside, automatically a writ may not follow directing the Petitioner to be released on emergency parole. The order dated 24 June 2021 states that the case of the Petitioner was considered as per the Rule 19(1)(C)(ii) of the Rules of 1959 and the recommendation of the High Power Committee adopted by the State of Maharashtra dated 7 May 2021 and 11 May 2021. It is stated therein that the Petitioner when was taken in the police escort on 25 October 2016 while returning to the Jail from the Court after sentence was announced, he escaped from the prison and was arrested almost after a year. Based on this, the Authorities have concluded that if released on emergency parole, the Petitioner will not be available and will abscond.

4. This apprehension of the Respondent cannot be said to be unjustified looking at the conduct of the Petitioner mentioned above, therefore the discretion used by the Respondent cannot be said to be perverse. In the light of this conduct of the Petitioner, we do not find that the case is made out for issuance of directions as sought for.

5. The Writ Petition is accordingly rejected.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

**JYOTI
PRAKASH
PAWAR**

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