

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

CRIMINAL WRIT PETITION NO. 1711 OF 2021

Prabhat Ramesh Adhav
Aged about 29 years,
At present undergoing the
Sentence imposed upon him
at Nashik Road Central Prison,
Nashi vide Prisoner No. C/11145.

...PETITIONER

Versus

1. The State of Maharashtra
Through Secretary
Home Department,
Mantralaya, Mumbai- 4000 032.
2. The Superintendent,
Nashik Road Central Prison, Nashik.
3. The Inspector General of Prisons,
Maharashtra State.

...RESPONDENTS

Mr. Nitin Sejpal for Petitioner.
Mr. K.V. Saste, APP for State.

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

**RESERVED ON : 27th APRIL, 2021.
PRONOUNCED ON: 29th APRIL, 2021.**

JUDGMENT [PER S.S. SHINDE, J.]:

. Rule. Rule made returnable forthwith and heard with the
consent of learned counsel appearing for the parties.

2. The petitioner has filed the present writ petition for the following substantial relief:

a) That this Hon'ble Court, be pleased to call for records and proceedings in respect of the Order dated 20th October 2020 passed by the Respondent No. 2, thereby rejecting Petitioner's Application for Emergency Parole as per Notification dated 8th May 2020 issued by the Government of Maharashtra (Exhibit "A" hereto) and upon perusing the legality, validity and propriety thereof, this Hon'ble Court be pleased to quash and set aside the impugned Order 20th October 2020 passed by Respondent No. 2 (Exhibit "B" hereto) and this Hon'ble Court be further pleased to direct the Respondents to forthwith release the Petitioner on Emergency Parole Leave for 45 days.

3. The Petitioner (Convict No. C-11145), is convicted for the offences under Section 302, 307 read with 34 of IPC for life and fine of Rs. 10000/-, in Sessions Case No. 590 of 2009 on 03.03.2017 by the Sessions Court at Nashik.

4. Learned counsel appearing for the Petitioner submits that the petitioner has undergone more than 4 years imprisonment and he is lodged in the Nashik Road Central prison. It is submitted that the application of the petitioner to release him on emergency (Covid-19) parole was rejected on the ground that the he was released only on one occasion on parole/furlough, till date. Therefore, learned counsel appearing for the Petitioner submits

that, merely because the Petitioner was released only once on parole/furlough is no ground to reject his application for emergency (Covid-19) parole.

5. Learned APP appearing for Respondent-State submits that the prayer of the petitioner to release him on emergency (Covid-19) parole has rightly been turned down, relying upon the notification dated 8th May 2020 issued by the Government of Maharashtra, Home Department. It is submitted that the requisite official capacity to accommodate the convicts in Nashik Central Prison is 3178 inmates. By end of March 2021, there were 2436 convicts (72- women convicts and 2364 men convicts). It is submitted that in the Nashik Central Prison 682 more convicts can be accommodated. In order to prevent spread of Covid-19 virus, inmates/convicts who have been recently lodged in the said prison are kept in isolation in separate hall and after necessary health checkup and tests, they are kept in the separate room in the prison. There is thermal scanning and rapid antigen tests are conducted on regular basis. In case, anybody is tested positive one separate isolation room No. 8 is maintained for their stay and treatment.

6. We have given careful consideration to the submissions of learned counsel appearing for the Petitioner and learned APP appearing for the Respondent-State. With the able assistance of learned counsel appearing for the Petitioner and learned APP, we have perused the pleadings and grounds in the petition, annexures thereto, impugned order/letter of understanding and also report received from the Superintendent of Nashik Central Prison, Nashik. Upon careful perusal of the impugned order we find that the prayer of the petitioner to release him on emergency Covid-19 parole has been rejected on the ground that he has released only once on parole/furlough, till date.

7. In our opinion, merely because the petitioner was released only once earlier cannot be a ground for rejecting the application of the petitioner for emergency parole. This issue has been dealt with by the Bombay High Court, bench at Aurangabad, in the case of Kavita w/o Dilip Baviskar v/s. The State of Maharashtra (Coram: T.V. Nalawade & Shrikant D Kulkarni, JJ), wherein a view is taken that whether the convict was released on one occasion or twice on parole in past and reported back in time, had been introduced with an intention to see that the convict shall return to jail in case he is released on emergency parole. It is

further held in the said case that through the petitioner therein had released only once on parole in the past, he was entitled to be released on emergency parole.

8. In that view of the matter, the writ petition is partly allowed. The impugned order dated 20th October, 2020, passed by Respondent No. 2, is quashed and set aside. The petitioner is granted liberty to apply afresh for grant of emergency Covid-19 parole within one week from today. Upon filing such an application, the respondent authority shall decide the same on its own merits, as expeditiously as possible, however, within two weeks from the date of filing of the application in accordance with the Prisons (Bombay Furlough and Parole) Rules, 1959, and keeping in view the factors like the extent of spread of Covid-19 virus and conditions in jail.

9. Rule is partly made absolute to above extent. The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)