

JPP

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

CRIMINAL WRIT PETITION NO. 2419 OF 2021

Raju Sampat Darode

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Abdul Hafeez Yakub Katwala, Advocate appointed through
Legal Aid for the Petitioner

Ms. S.D. Shinde, APP for the Respondent - State

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

DATE : 18 NOVEMBER 2021

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner's application for Emergency (Covid-19) Parole is rejected by the impugned order. Two grounds are given in the impugned order that is the Petitioner having not granted parole or furlough earlier is not entitled to be released on emergency parole pursuant to the provisions of Rule 19(1)(C)(ii) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules. 1959 and secondly,

the Petitioner is involved in a serious crime such as Section 396 of the Indian Penal Code for which he is convicted and he is not entitled to be considered for emergency parole.

3. As regard the stipulated condition that the Petitioner has not permitted parole or furlough leave relying on the provisions of Rule 1(C)(ii) of the Rules of 1959, this issue is no longer *res integra* and in the group of matters the Division Bench of this Court in the case of *Roshan Ali Din Mohmed Mukhiya Shaikh v/s. State of Maharashtra*¹ being held that this condition is not legal and has been set aside.

4. As regard the condition as regard the ground that the Petitioner is convicted in a serious crime under Section 396 of the Indian Penal Code is concerned, the learned APP points out that this condition is pursuant to the recommendation of the High Power Committee constituted pursuant to the order passed by the Supreme Court and the recommendations have been directed to be implemented by the State Government by issuing necessary instructions to its officers.

5. Therefore, the claim to be released on emergency parole is also considered on the basis of guidelines of the High Power Committee in addition to the Rules of 1959 (as amended) by the

¹ Cri.W.P.No.2115 of 2021 & Ors. dtd. 28 October 2021

amendment Rules of 2020. In the light of the recommendation of the High Power Committee now accepted by the State Government and implemented in addition to the Rules of 2020, the claim of the Petitioner even though the first ground in the impugned order is not legal, cannot be considered and accordingly no relief can be granted to the Petitioner.

6. The Writ Petition is rejected.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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Date: 2021.11.24
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