

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

CRIMINAL WRIT PETITION NO.340 OF 2021

Kailas Bhika Navghare

...**PETITIONER**

Versus

1. The State of Maharashtra
2. The Superintendent of Jail
Nashik Road Central Prison

...**RESPONDENTS**

Mr.Aniket Vagal for the Petitioner
Mrs.S.D. Shinde, APP for State

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

**JUDGEMENT RESERVED ON : APRIL 8, 2021.
JUDGEMENT PRONOUNCED ON: APRIL 20, 2021.**

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

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

2. The Petitioner has filed the present petition for the following substantial reliefs:

a) Order of Respondent No. 2 passed on 19.9.2020, may kindly be quashed and set aside.

b) The Petitioner may kindly be released on Emergency Parole for the Period of 45 days on

any terms and conditions as this Hon'ble Court may deem fit and proper."

3. The Petitioner herein (Convict No.C-12011), is convicted for the offence punishable under section 302 of Indian Penal Code for life imprisonment and fine of Rs.1800/-, in Sessions Case No.92 of 2012 on 15.10.2018 by the Sessions Court at Jalgaon.

4. Learned counsel appearing for the Petitioner submits that the petitioner has undergone 2 years 9 months of imprisonment and he is lodged in Nashik Road Central prison, Jail Road, District Nashik. It is submitted that the application of the petitioner to release him on emergency (Covid-19) parole was rejected on the ground that the petitioner was never released on parole/furlough, till date. Therefore, the learned counsel appearing for the Petitioner submits that merely because the Petitioner was not released earlier 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 inmates in Jail are less in number

as compared to the capacity of the prison. Utmost care is being taken in the prison by the officers and employees working in the prison by regularly examining the convicts by thermal scanning and RT-PCR tests. At present, there are no convicts who are tested positive/Covid-19 affected in the said prison. Therefore, learned APP submits that the prayer of the petitioner to release him on emergency (Covid-19) parole cannot be favorably considered.

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 pleadings and grounds in the petition, annexures thereto, impugned order/letter of understanding and also report received from the Superintendent of Nashik Road Central Prison, Jail Road, Nashik. Upon careful perusal of the said report received from the prison authority, it appears that proper care is being taken of the convicts in the prison so as to avoid possibility of contracting Covid-19 virus. Further, we have noticed from the report submitted by the jail authority that the petitioner has not yet completed three years in jail.

7. In the circumstances, the petitioner cannot be released on parole / furlough. The impugned order dated 19.9.2020 cannot be faulted with.

8. In that view of the matter, the writ petition is rejected.

9. Rule is discharged. The writ petition stands disposed of accordingly. The petitioner will be at liberty to apply in future for furlough/parole subject to fulfilling eligibility criteria laid down in the Prisons (Bombay Furlough and Parole) Rules, 1959.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)