

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

CRIMINAL WRIT PETITION NO. 1494 OF 2021

Ravindra S/o Sukarya Bhandari
(Petitioner's brother Mukesh S/o
Sukarya Bhandari, Convict No. 11899,
confined at Central Jail Nasik Road),
Age- 40 years, Occ- Job,
R/o. Room No. 245, Koliwaligaon,
Ambarwadi Jail Road, Kalyawn, West,
Thane.

...PETITIONER

Versus

The State of Maharashtra
Through Superintendent
Central Prison, Nasik Road.

...RESPONDENT

...

Mr. Rupesh Jaiswal for Petitioner.
Mr. K.V. Saste, APP for State.

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

**RESERVED ON : 22nd 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 brother of the convict has filed the present petition
for the following substantial reliefs:

B) By Writ of Mandamus or any other writ,
order or directions in the like nature to quash
and set aside the order of Respondent dated

12.9.2020 (Exhibit-A) and further direct the respondent to release the Petitioner's brother (Mukesh S/o Sukarya Bhandari Convict no. 11899), Nashik Road Central Jail) on Emergency Parole Leave.

3. The Petitioner's brother- Mukesh Sukarya Bhandari (Convict No. C-11899), is convicted for the offences under Section 302 and 201 of IPC for life and fine of Rs. 60000/-, in Sessions Case No. 473 of 2015 on 24.07.2018 by the Sessions Court at Kalyan.

4. Learned counsel appearing for the Petitioner submits that the convict has undergone more than 5 years imprisonment and he is lodged in the Nashik Road Central prison. It is submitted that the application of the convict to release him on emergency (Covid-19) parole was rejected on the ground that he was never released on parole/furlough, till date. Therefore, learned counsel appearing for the Petitioner submits that, merely because the Petitioner's brother was never 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's brother 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's brother to release him on emergency Covid-19 parole has been rejected on the ground that he has never released earlier on parole/furlough, till date.

7. It is the matter of recent past that Covid-19 virus is spreading very fast compare to last year. Therefore, in our opinion it is necessary for the respondent authorities to reconsider the prayer of the convict to release him of emergency Covid-19 parole.

8. In our opinion, merely because the petitioner's brother was not released earlier cannot be a ground for rejecting the application of the petitioner for emergency parole. This Court in Criminal Writ Petition-ASDB-LD-VC No. 65 of 2020 (Milind Ashok Patil & Ors. Vs. State of Maharashtra & Ors.) had occasion to consider similar issue and a view is taken in the said case that merely because the petitioner was not released twice in the past on parole/furlough cannot be a ground for rejecting the application for emergency parole.

9. In that view of the matter, the writ petition is partly allowed. The impugned order dated 12.09.2020 passed by Respondent, is quashed and set aside. The convict 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 three 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.

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

(MANISH PITALE, J.)

(S. S. SHINDE, J.)