

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

CRIMINAL WRIT PETITION NO. 1713 OF 2021

Arif S/o Shehzad Qureshi
Age- 22 years, Occ- Prisoner
Convict No.- C-12580,
At present lodged in
Central Prison, Nashik Road, Nashik,
R/o Flat No. 03, Shivai Society,
Akash Petrol Pump, Sawarkar Garden,
Dindori Road, MERI, Mharsul,
Nashik.

...PETITIONER

Versus

- 1] The State of Maharashtra
Through its Principal Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2] The Divisional Commissioner
Nashik Division, Nashik,
Office at Commissioner office,
Nashik Road, Nashik.
- 3] The Deputy Inspector General
of Police (Prison), Central division,
Central Prison, Harsul,
Aurangabad.
- 4] The Superintendent of Prison
Central Prison, Nashik Road,
Nashik.

...RESPONDENTS

...

Mr. M.M. Chaudhari for Petitioner.

Mr. Deepak Thakre, PP a/w. Mr. J P Yagnik, APP for State.

...

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

**RESERVED ON : 22nd APRIL, 2021.
PRONOUNCED ON: 27th 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 petition for the following substantial reliefs:

B) To quash and set-aside the impugn order dated.19/03/2021 passed by Respondent No. 4 thereby refusing to release the petitioner on emergency parole leave.

3. The Petitioner herein (Convict No. C-12580), is convicted for the offences under Section 302, 149, 324, 143, 147, 184 of IPC for life and fine of Rs. 7200/-, in Sessions Case No. 141 of 2018 on 10.11.2020 by the Sessions Court at Nashik

4. Learned counsel appearing for the Petitioner submits that the petitioner has undergone more than 3 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 Petitioner herein was never released on parole/furlough, till date. Therefore, learned counsel appearing for the Petitioner submits that, merely because the Petitioner was never released earlier is no ground to reject his application for emergency (Covid-19) parole.

5. Learned PP 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 PP, 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 there are proper arrangements made in the jail to prevent spread of Covid-19 virus and secondly the petitioner was never released earlier on parole/furlough, till date.

7. In the recent past Covid-19 virus is spreading very fast and therefore, we deem it appropriate to direct the respondent authorities to reconsider the prayer of the petitioner to released him on emergency Covid-19 parole.

8. In our opinion, merely because the petitioner was not released earlier on furlough/parole 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 therein was not released twice in the past on parole/furlough cannot be a ground for rejecting the application on the ground of emergency parole.

9. In that view of the matter, the writ petition is partly allowed. The impugned order dated 19.03.2021 passed by Respondent No. 4, 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 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.)