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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1954 of 2021

Arun s/o Balaji Dhumal	]	..	Petitioner
vs.			
The State of Maharashtra	]	..	Respondent

Mr.Rupesh A. Jaiswal, for Petitioner.

Smt.Sangeeta Shinde, APP for State.

**CORAM : PRASANNA B. VARALE &
N.R.BORKAR, JJ.**

DATE : 13TH MAY, 2021

(Vacation Court Through V.C.)

P.C.

- 1] Heard learned counsel for the Petitioner.

- 2] The Petitioner i.e. brother of the convict, is challenging the order passed by the Competent Authority viz. Nasik Road Central Prison dated 19/20.01.2021, whereby, the application submitted by the brother of the Petitioner seeking emergency parole leave on the ground of pandemic Covid 19 is rejected.

- 3] Perusal of the impugned order show that two reasons are assigned for rejection. Firstly, sufficient measures are taken in the prison so as to meet the pandemic situation. It is stated that there is no

over-crowding in the prison. Another ground is that the brother of the Petitioner had not availed the parole leave earlier.

4] Our attention was invited to the order of the Division Bench of this Court dated 12.01.2021 to submit that on similar grounds application of the brother of the Petitioner was rejected. The Division Bench of this Court found no substance in these two reasons referred to in the rejection order. There is also reference to an order of the division Bench dated 04.08.2020 in Criminal Writ Petition No.760 of 2020.

5] The submission of the learned counsel for the Petitioner is that, inspite of various orders being passed by this Court, prison authorities are mechanically passing orders rejecting the applications reiterating unsustainable grounds.

6] The Petition is opposed by the learned APP.

7] On going through the material placed on record and more particularly on going through various orders passed by this Court, we find considerable merit in the submission of the learned counsel for the Petitioner. The rejection order dated 19/20.01.2021 is passed on those two grounds which were considered by this court in other Petitions and Division Bench of this Court by considering various Notifications issued by the State Government qua the Prisons (Bombay Parole and Furlough) Rules, 1959, allowed the Petitions by quashing and setting aside the orders passed by the prison authorities.

8] We, therefore, see no reason to take any different view than the

view taken by the Division Bench of this Court in the order dated 12.01.2021 or in the order dated 04.02.2021. Resultantly, following order is passed :

- i] Writ Petition is allowed.
- ii] Respondent is directed to release Avinash Balaji Dhumal on parole subject to fulfilling other requirements as per Rules and on usual conditions.
- iii] Accordingly, Writ Petition is disposed of.

[N.R.BORKAR, J]

[PRASANNA B. VARALE, J]