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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**WRIT PETITION NO.1907 OF 2021**

Rajesh s/o Madhukar Patil ] .. Petitioner

vs.

The State of Maharashtra ] .. Respondent

Mr.Rupesh Jaiswal, for Petitioner.

Mr.J.P. Yagnik, APP for State.

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

**DATE : 11TH MAY, 2021  
(Vacation Court Through V.C.)**

**P.C.**

1] Heard Mr.Jaiswal, learned counsel for the Petitioner and Mr.Yagnik, learned APP for the State.

2] It is submitted by learned counsel for the Petitioner that this is second occasion for the Petitioner to approach this Court for a similar prayer viz. releasing the father of the Petitioner on parole. The father of the Petitioner is presently lodged in Central Prison Nashik as Convict No.C-11745, suffering the conviction vide Judgment and order of the learned trial Court in Sessions Case No.24 of 2013.

3] Learned counsel for the Petitioner has invited our attention to the Division Bench order dated 15.03.2021. The father of the Petitioner submitted an application for his release on emergency parole. The said

application of the father of the Petitioner was rejected on two grounds. Firstly, on the ground that there are sufficient arrangements made in the prison so as to take care of the situation arisen because of spread of Covid-19 virus and secondly on the ground that the father of the Petitioner was earlier released on parole on one occasion. The Division Bench in its detailed order dated 15.03.2021 could not find any substance in the rejection order. Reference was also made to the orders of this Court in the matter of *Ashokkumar Dashrat Salam vs. The State of Maharashtra (Writ Petition No.284 pf 2021 and connected matters)* and the matter of *Kavita w/o Dilip Baviskar vs. State of Maharashtra (Writ Petition No.571 of 2020)*. Resultantly, the order impugned in the Petition was quashed and set aside. The Petitioner was granted liberty to file application afresh to the authority. The Respondent/Authority was directed to decide the application afresh expeditiously.

4] The father of the Petitioner then again submitted an application for grant of emergency parole leave. The respondent/authorities rejected the application by order dated 07.04.2021 and interestingly by reiterating those grounds which were dealt in, in the order of this Court dated 15.03.2021.

5] Mr. Jaiswal, learned counsel for the Petitioner submitted that the impugned order would show non-application of mind by the Authorities. Mr. Jaiswal also invited our attention to the Notification issued by the State Government dated 08.05.2020 and orders of this Court in *Criminal Writ Petition No.179 of 2021 and Criminal Writ Petition (Stamp) No.6068 of 2020* to submit that the Petitioner is similarly circumstanced.

6] Learned APP opposed the Petition. He submitted that there is apprehension in the mind of the Authorities that if the Petitioner is released on parole leave, he may misuse the liberty granted to him and may not surrender to the prison on expiry of the leave period.

7] On hearing both the sides, and on going through various orders placed on record, we find considerable merit in the submission of learned counsel for the Petitioner that the order passed by the Authorities impugned in the present Petition would only show non-application of mind by the Authorities. At the cost of repetition, we state that the earlier application of the Petitioner was rejected on these very two grounds and rejection order was quashed and set aside by this Court. In spite of specific observations of this court forming an opinion that the grounds for rejection are not acceptable, the Authorities passed similar order again and rejected the application of the father of the Petitioner.

8] Though learned APP submitted before this court that there is apprehension in the mind of Authorities that the father of the Petitioner may not surrender to the prison authorities and may misuse the liberty granted to him, we are unable to accept the submission of the learned APP for a simple reason that when the father of the Petitioner was released on parole leave on earlier occasion, he surrendered to the prison authorities on the due date. As such there was no justifiable material before the respondent/authorities to create an impression and apprehension that the father of the Petitioner would not surrender to the prison authorities on due date.

9] Considering all these aspects, we are of the opinion that the

Petitioner has made out a case for allowing the Petition. Hence, the following order :

- a] Writ Petition is allowed.
- b] The order passed by the competent authority dated 07.04.2021 is quashed and set aside.
- c] The father of the Petitioner viz. Madhukar Patil, be released on parole leave on requisite conditions for the period as specified by the competent authority.
- d] All the concerned to act on an authenticated copy of this order.
- e] Writ Petition is disposed of.

**[N.R.BORKAR, J]**

**[PRASANNA B. VARALE, J]**