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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1928 OF 2021

Inden @ Mohiddin Sayyed Ali Shaikh] .. Petitioner
vs.
The State of Maharashtra & Ors.] .. Respondents

Mr.Aniket Vagal, for Petitioner.
Smt.Aruna S. Pai, APP for the State.

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

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

P.C.

1] The Petitioner who is suffering his conviction and lodged in Central Prison, Pune, as convict No.581 is before this Court raising a challenge to the notice dated 16.02.2021, issued by Respondent No.3-The Superintendent of Jail, Yerwada Open Central Prison, Pune, asking the Petitioner to surrender to the prison authorities. The Petitioner applied for emergency parole leave and by order dated 10.05.2020, the application of the Petitioner was allowed and the Petitioner was released on parole leave for a period of 45 days. The Petitioner was directed to attend Police Station on periodical basis.

2] In the notice dated 16.02.2021, it is stated that the scheduled date to surrender in prison of the Petitioner is 11.01.2021, but the

Petitioner neither surrendered to the prison authorities nor attended the Police Station on the due dates, so also during the period of parole, Petitioner joined a political party.

3] It is submitted in the Petition that the Petitioner has already completed his entire conviction period and it is not the Petitioner who joined the political party, it is the brother of the Petitioner who had joined the political party. It is submitted in the Petition that as the Petitioner is in advance stage i.e. 60 years of age and had spent 24 years in the prison, he is entitled for benefits granted under the State Government Notification dated 08.05.2020. It is also submitted by the learned counsel for the Petitioner that recently an order is passed by the Hon'ble Apex Court, whereby, the State Authorities are directed to release the prisoners in view of surge in the Covid-19 cases and to avoid over-crowding in the prisons.

4] Learned counsel for the Petitioner submitted that the Petitioner has surrendered to the prison authorities on 03.05.2021.

5] On perusal of material placed on record, and more particularly, in view of the statement of learned counsel for the Petitioner that the Petitioner has surrendered himself to the prison authorities on 03.05.2021, we are of the opinion that the Petition had served its purpose and if the Petitioner is claiming any benefit of the order passed by the Hon'ble Apex Court, the recourse open to the Petitioner is to approach the prison authorities by filing application afresh for his release.

6] Learned counsel for the Petitioner submits that the Petitioner

would file necessary application to the prison authorities, but the authorities be directed to decide the said application expeditiously.

7] Accordingly, we dispose of the Petition with a direction to the respondent/authorities i.e. Respondent no.3 to decide the application of the Petitioner as early as possible, if so preferred by the Petitioner within one week from today for his release on emergency parole.

[N.R.BORKAR, J]

[PRASANNA B. VARALE, J]