

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1948 OF 2021**

Mohammed Atiulla @ Abdul
Mohammed Ali Moharam Ali ... Petitioner
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Aniket Vagal for the Petitioner.
Ms Sangeeta Shinde, APP for the Respondents – State.

**CORAM : PRASANNA B. VARALE &
N.R. BORKAR, JJ.
DATE : 13.05.2021.**

P.C.

1] This petition takes an exception to the order passed by the respondent No.2 dated 28.5.2020. By the impugned order, the respondent No.2 rejected the request of the petitioner to release him on emergency parole leave.

2] We have heard the learned counsel for the petitioner and learned APP for the respondent – State.

3] The learned counsel for the petitioner submits that the petitioner is a life convict and has till date undergone imprisonment for more than 7 years. It is submitted that the

respondent No.2 has rejected the request of the petitioner for emergency parole leave on the ground that the petitioner was released on parole leave for the period of 30 days by order dated 3.10.2012 and was required to report back to the prison on 2.1.2013. The petitioner, however, reported back to the prison on 3.1.2013, i.e., one day after the date on which the petitioner was required to report to the prison. It is submitted that this court has repeatedly held that the emergency parole leave cannot be rejected on the aforesaid ground. It is submitted that the impugned order thus needs to be quashed and set aside and the petitioner needs to be released on emergency parole leave.

4] On the other hand, learned APP appearing for the respondents- State submits that the request of the petitioner for emergency parole leave has rightly been rejected in view of Clause 19 (1) and (2) of Notification dated 8.5.2020. Thus, it is submitted that the petition needs to be dismissed.

5] We have perused the impugned order. It appears that the petitioner was released on parole leave by order dated

3.10.2012 for the period of 30 days and the petitioner was required to report back to the prison on 2.1.2013. However, it appears that the petitioner instead of 2.1.2013 reported back to the prison on 3.1.2013, i.e., one day after the date on which he was required to report back to the prison. It appears that for the said default, the punishment in the form of warning is already issued to the petitioner. It is also not the case of the respondents that the petitioner was required to be arrested for non-reporting on scheduled date.

6] Considering these facts and circumstances, the impugned order is set aside. The respondent No.2 is directed to release the petitioner on emergency parole leave on usual conditions.

7] Writ Petition is disposed of in the aforesaid terms.

(N.R. BORKAR, J.) (PRASANNA B. VARALE, J.)