

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2017 OF 2021**

Gopi H. Bora ... Petitioner
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Prabhanjan B. Gujar for the Petitioner.
Mr. Deepak Thakre, PP a/w. Ms S.D.Shinde, APP for the
Respondent – State.

**CORAM : S.S. SHINDE &
N.R. BORKAR, JJ.
DATE : MAY 27, 2021.
(VACATION COURT)**

P.C.

1] This petition takes an exception to the order passed by the respondent No.2 dated 28.9.2020. 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 the learned Public Prosecutor for the respondent – State.

3] By the judgment and order dated 12.4.2019 passed by the Additional Sessions Judge, Thane in Sessions Case No. 206 of 2016, the petitioner has been convicted for the offence punishable under section 376(2) (I) of the IPC and sentenced to suffer R.I. for 14 years. The respondent No.2 has rejected the request of the petitioner to release him on emergency parole in view of not fulfilling the conditions mentioned in

Notification dated 8.5.2020 issued by Home Department of the State of Maharashtra.

4] The learned counsel for the petitioner submits that till date the petitioner has completed sentence of more than 5 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 does not fulfill the condition in Notification dated 8.5.2020, which states that the prisoners whose sentence is above 7 years shall on their application be appropriately considered for release on emergency parole, if the convict has returned to prison on time on previous two releases either parole or furlough. It is submitted that the said conditions would not apply in the case of present petitioner in view of the fact that the petitioner has never been released either on parole or furlough since the date of his conviction. It is submitted that this court has granted emergency parole leave to the convict whose request was rejected on similar 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.

5] On the other hand, learned APP appearing for the respondent - State submits that the petitioner is convicted for the offence punishable under section 376(I) of the IPC. It is submitted that the High Power Committee (constituted under the order dated 23.3.2020 of the Hon'ble Supreme Court) to consider the recommendation of release of prisoners on emergency parole, has directed that the request for parole be

favourably considered except the prisoners *inter alia* convicted of the offences punishable under sections 376, 376(A), (C), (D) and (E) of the IPC. In support of it, the learned APP has placed on record Corrigendum dated 18.5.2020 to the Minutes of Meeting of High Power Committee dated 11.5.2020. It is thus submitted that the petition needs to be dismissed.

6] Admittedly, the petitioner has been convicted for the offence punishable under section 376(l) of the IPC, i.e. for committing rape on a woman suffering from mental or physical disability. Considering the nature of offence for which the petitioner has been convicted, we are not inclined to release him on emergency parole leave. Hence, Writ Petition is dismissed.

(N.R. BORKAR, J.)

(S.S. SHINDE, J.)