

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

CRIMINAL WRIT PETITION NO.2457 OF 2021

Ramchandra @ Raju Chimaji Shette C - 12585 ... Petitioner

Vs.

State of Maharashtra & another ... Respondents

Ms.Sharda P. Chate i/b Mr.Sandeep Singh for the Petitioner

Ms.Sangeeta Shinde, APP, for Respondent – State

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.**

**JUDGMENT RESERVED ON: JULY 23, 2021
JUDGMENT DELIVERED ON: JULY 27, 2021**

JUDGMENT (PER S.S. SHINDE, J.):

1. Rule. Rule made returnable forthwith with the consent of the learned Counsel appearing for the parties and heard finally.
2. The petitioner is a convict undergoing sentence of life imprisonment. The petitioner has been in jail for 3 years and 5 months.
3. The Petitioner had applied for grant of emergency Covid-19 parole for 45 days in view of the Covid-19 pandemic and the

amendment in the Prisons (Bombay Furlough and Parole) Rules, 1959. However, his application was rejected vide order dated 10th March, 2021 passed by Respondent No.2 – Superintendent of Jail, Nashik Road Central Prison, District Nashik, on the grounds that the petitioner has never been released on furlough or parole and that if he is released on parole, there is a possibility of him getting absconded.

4. Ms.Chate, learned Counsel appearing for the petitioner, relied upon the judgments of this Court in Naresh Rajaram Ovhal vs. The State of Maharashtra & another (Criminal Writ Petition (Stamp) No.5340 of 2020) and Kavita w/o. Dilip Baviskar vs. The State of Maharashtra (Criminal Writ Petition No.571 of 2020) to contend that the ground stated in the impugned order was wholly unsustainable. It was, therefore, submitted that the Writ Petition deserves to be allowed.

5. On the other hand, the learned Public Prosecutor appearing for the Respondent – State, opposed the petition for grant of emergency Covid-19 parole. It was submitted that now the situation in the Nashik Road Central Prison, District Nashik, has changed substantially. It was submitted that the number of

inmates in the said prison is less than the capacity. It was submitted that there is no crowd in the jail and that the authorities have sufficient infrastructure now to immediately take care of any inmate or staff, who may suffer from Covid-19 virus. On this basis, it was submitted that the petitioner could be permitted to apply afresh for grant of emergency Covid-19 parole.

6. We have perused the record forwarded by the respondents to the office of the Public Prosecutor. The facts and figures stated therein indicate that in pursuance of release of number of inmates due to Covid-19 pandemic, now the situation in the Nashik Road Central Prison has changed substantially. There can be no doubt about the fact that the petitioner is justified in relying upon the aforesaid judgments of this Court to claim that the reason assigned in the impugned order is unsustainable.

7. But at the same time, the petitioner being a life convict, has undergone a sentence of 3 years and 5 months only. In that view of the matter, the Writ Petition is partly allowed. The impugned order dated 10th March, 2021 is quashed and set aside. The petitioner is granted liberty to apply afresh for grant of emergency Covid-19 parole within one week from today. Upon filing such an

application, the respondent No.2 shall decide the same on its own merits, as expeditiously as possible, however, within two weeks from the date of such filing of the application in accordance with the Prisons (Bombay Furlough and Parole) Rules, 1959 and shall not refuse to entertain the said application on the same grounds mentioned in the impugned order. The authority shall also keep in view all the factors like the extent of spread of Covid-19 virus and conditions in jail.

8. Rule is made absolute to the above extent. The Writ Petition stands disposed of accordingly.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)

VISHWANATH
SATYANARAYANA
SHERLA
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