

*JPP*

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

***CRIMINAL WRIT PETITION NO. 2128 OF 2021***

Madhav Madhukar Yedke

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Sumeet Vankadkar appointed through Legal Aid Panel for the  
Petitioner

Ms. M.H. Mhatre, APP for the Respondent - State

***CORAM : NITIN JAMDAR &  
SARANG V. KOTWAL, JJ.***

***DATE : 18 NOVEMBER 2021***

**P.C. :-**

A letter written by the Petitioner on 7 September 2020 has been converted into the present Petition. The Petitioner has sought Emergency (Covid-19) Parole.

2. The learned APP states that by order dated 22 June 2021, the emergency parole is granted to the Petitioner. However,

since he has not complied with the conditions more particularly condition 5, has not been released on Emergency (Covid-19) Parole.

3. We have perused the order dated 22 June 2021 and the letter of the Petitioner. Clause 5 of the order dated 22 June 2021 contains a condition that the Petitioner should furnish surety of the Government Servant of Rs.20,000/-. This clause has been set aside in the various orders passed by this Court. These are *Rakesh Mukhnath Sharma vs. The State of Maharashtra & Ors.*<sup>1</sup>, *Rakesh Ramsamuj Rai (brother of the Petitioner Brijesh Rai) vs. The State of Maharashtra*<sup>2</sup>, *Indarsing Padkya Pawara vs. State of Maharashtra*<sup>3</sup> and *Mohd. Amir Shaikh Mohd. vs. The State of Maharashtra & Ors.*<sup>4</sup>. Therefore, this condition cannot be sustained and the same is set aside. The same is replaced by a condition that the Petitioner supplied surety of Rs.10,000/- by another relative or friend.

4. As regard the cash surety of Rs.50,000/- is concerned, since we find it on the higher side in the facts of the case we put a query to the learned APP that why such amount is imposed. In the group of matters before us, we find it ranging from Rs.10,000/- to Rs.15,000/-. We are informed that since the Petitioner has not been released earlier on parole or furlough, this condition has been

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1 Decided by this Court on 4 August 2021 in Cr.W.P. No. 2728/2021

2 Decided by this Court on 14 September 2021 in Cr.W.P. No.3203/2021

3 Decided by this Court on 27 September 2021 in Cri.W.P. No.3350/2021

4 Decided by this Court on 3 November 2021 in Cri.W.P.No.4097/2021

imposed. The criteria that the persons who have not been released earlier on parole or furlough should be treated differently has been disapproved by the Division Bench of High Court (Nagpur Bench) in the case of *Ayyaz Khan Zabaz Khan v/s. Divisional Commissioner and Anr.*<sup>5</sup>. The condition also should not be such that it nullifies the object of emergency parole (Covid-19) brought about by the pandemic, which since the Petitioner is unable to avail the order, demonstrates.

5. Therefore, we do not find any warrant in imposing such excessive cash surety on the Petitioner. An amount of Rs.50,000/- is therefore modified to Rs.15,000/-. Rest of the conditions in the order dated 22 June 2021 remained same.

6. The Writ Petition is accordingly disposed of.

7. The Registry shall communicate the order of the Petitioner to the Superintendent of Jail immediately.

***SARANG V. KOTWAL, J.***

***NITIN JAMDAR, J.***

**JYOTI  
PRAKASH  
PAWAR**

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by JYOTI  
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PAWAR  
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<sup>5</sup> Cri.WP.No. 146 of 2021 dated 10 March 2021