

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

CRIMINAL WRIT PETITION NO.2601 OF 2021

Ranjit Shahji Gade

... Petitioner

Vs.

State of Maharashtra

... Respondent

Mr.Rupesh Jaiswal for the Petitioner

Mrs.M.H. Mhatre, APP, for Respondent – State

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

DATED: SEPTEMBER 7, 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. By this Writ Petition, the petitioner has challenged the order dated 23rd May, 2020 passed by Superintendent of Jail, Yerawada Central Prison, Pune, whereby the application of the petitioner for grant of emergency Covid – 19 parole for 45 days was rejected.

3. The petitioner is a convict undergoing sentence of life imprisonment. The petitioner has been in jail for more than 11 years.

4. In view of the Covid-19 pandemic and the amendment in the Prisons (Bombay Furlough and Parole) Rules, 1959, the petitioner applied for grant of emergency Covid-19 parole. The application was rejected by the aforesaid impugned order on the ground that the petitioner was released only once in the past on furlough leave.

5. Mr.Jaiswal, learned Counsel appearing for the petitioner, relied upon the judgments of this Court in **Kavita w/o. Dilip Baviskar (Criminal Writ Petition No.571 of 2020); Rajendra Pathare vs. State of Maharashtra (Criminal Writ Petition (stamp) No.3033of 2020) and Rajendra Avhad vs. State of Maharashtra (Criminal Writ Petition No.760 of 2020)** and contended that the ground stated in the impugned order is wholly unsustainable. It is therefore submitted that the Writ Petition deserves to be allowed.

6. On the other hand, the learned Additional Public Prosecutor appearing for the State opposed the petition for grant of emergency Covid-19 parole. It is submitted that now the situation in the Yerwada Central Prison, has changed substantially. It is submitted that the number of inmates in the said prison are less than the capacity. It is further 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. It is also submitted that, till today, more than 5000 inmates have been vaccinated and there is no impact of Covid-19 virus in the Yerawada Central Prison. On this basis, it is submitted that the petitioner could be permitted to apply afresh for grant of emergency Covid-19 parole.

7. We have perused the record forwarded by the respondent to the office of the Public Prosecutor of this Court. 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 Yerwada 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. We are in agreement with the said contention raised on behalf of the petitioner and find that the impugned order cannot be sustained. But at the same time, the fact situation on ground as on today, cannot be ignored and, therefore, there is substance in the contention raised on behalf of the learned APP that the request of the petitioner for grant of emergency Covid-19 parole needs to be considered afresh.

8. In view of the above, the Writ Petition is partly allowed. The impugned order is quashed and set aside. The petitioner is granted liberty to apply afresh for grant of emergency Covid-19 parole. In case, such an application is submitted by the petitioner, the Superintendent of Jail, Yerawada Central Prison, Pune, is directed to consider and dispose of the same as expeditiously as possible, however, within two weeks from the date of receipt of such application from the petitioner, in the light of the circumstances prevailing as on today and in terms of the Prisons (Bombay Furlough and Parole) Rules, 1959. In case, the authority is not inclined to entertain the application, the same shall not be rejected on the grounds which are assigned in the impugned order.

9. Rule 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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VISHWANATH
SATYANARAYANA
SHERLA
Date: 2021.09.09
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