

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.981 OF 2021**

Mahavir Raghunathrao Hulangure : Petitioner.
Versus
The State of Maharashtra : Respondent.

Ms. Gauri S Velankar, appointed advocate for the Petitioner.
Mr. Deepak Thakre, PP a/w **Mr. S R Shinde**, APP for the Respondent/State.

CORAM : S. S. SHINDE,
MANISH PITALE, JJ
Reserved on : 29th APRIL 2021
Pronounced on : 04th MAY 2021

JUDGMENT : (PER S S SHINDE, J)

1 Rule. Rule made returnable forthwith and heard with the consent of learned counsel appearing for the parties.

2 The Petitioner has filed this Petition for grant of emergency Covid-19 parole. The Petitioner (Convict No. C-9346) has been convicted by the City Civil and Sessions Court, Mumbai in Sessions Case No. 534 of 2012 on 30/04/2014 for the offences under Section 302 of IPC and sentenced him to suffer imprisonment for life and to pay fine of Rs. 1000/- in default to suffer imprisonment for 6 months.

3 Learned counsel appearing for the Petitioner submits that the petitioner has undergone more than 8 years imprisonment and he is lodged in the Nashik Road Central prison. The learned counsel appearing for the Petitioner invites our attention to the impugned order dated 19/09/2020

passed by the Superintendent of Nashik Road Central Prison, Nashik, and submits that the Petitioner's application has been rejected by the said jail authority relying upon the Government Notification dated 08/05/2020 that the convicts, who have been convicted for the offences which are punishable for more than 7 years and released twice on parole and such convicts reported back in time on such release, are entitled for emergency parole. However, the jail authority rejected the application of the Petitioner on the ground that in the present case, the Petitioner was released only once on parole in past, and therefore, in view of the notification dated 08/05/2020, the Petitioner is not entitled to be released on emergency parole. Therefore, learned counsel appearing for the Petitioner submits that, merely because the Petitioner was released only once earlier is no ground to reject his application for emergency (Covid-19) parole.

4 Learned PP appearing for Respondent-State submits that the prayer of the petitioner to release him on emergency (Covid-19) parole has rightly been turned down, relying upon the notification dated 8th May 2020 issued by the Government of Maharashtra, Home Department. It is submitted that the requisite official capacity to accommodate the convicts in Nashik Central Prison is 3178 inmates. By end of March 2021, there were 2364 convicts (68- women convicts and 2243 men convicts). It is submitted that in the Nashik Central Prison 807 more convicts can be accommodated. In order to

prevent spread of Covid-19 virus, inmates/convicts who have been recently lodged in the said prison are kept in isolation in separate hall and after necessary health checkup and tests, they are kept in the separate room in the prison. There is thermal scanning and rapid antigen tests are conducted on regular basis. In case, anybody is tested positive one separate isolation room No. 8 is maintained for their stay and treatment.

5 We have given careful consideration to the submissions of learned counsel appearing for the Petitioner and learned PP appearing for the Respondent-State. With the able assistance of learned counsel appearing for the Petitioner and learned PP, we have perused the pleadings and grounds in the petition, annexures thereto, impugned order/letter of understanding and also report received from the Superintendent of Nashik Central Prison, Nashik. Upon careful perusal of the said report received from the prison authority, it clearly appears on record that the proper care is being taken of the convicts in the prison, so as to, avoid possibility of contracting Covid-19 virus. However, in the impugned order/letter of understanding a reason given is that, the Petitioner herein was released only once on furlough/parole, in past.

6 In our opinion, merely because the petitioner was released earlier only once on furlough/parole cannot be a ground for rejecting the application of the petitioner for emergency parole. This Court in Criminal Writ Petition-ASDB-LD-VC No. 65 of 2020 (Milind Ashok Patil & Ors. Vs. State of

Maharashtra & Ors.) had occasion to consider similar issue and a view is taken in the said case that merely because the petitioner was not released twice in the past on parole/furlough cannot be a ground for rejecting the application for emergency parole.

7 In that view of the matter, the writ petition is partly allowed. The impugned order dated 19.09.2020 passed by Respondent-authority, 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 authority shall decide the same on its own merits, as expeditiously as possible, however, within two weeks from the date of filing of the application in accordance with the Prisons (Bombay Furlough and Parole) Rules, 1959, and keeping in view the factors like the extent of spread of Covid-19 virus and conditions in jail.

8 Rule is partly made absolute to above extent. The writ petition stands disposed of accordingly.

9 We appreciate the able assistance rendered by Advocate Ms. Gauri S Velankar, appointed for representing the petitioner. We quantify her fess at Rs. 5000/- to be paid by High Court Legal Services Committee, Mumbai, within four weeks from the receipt of copy of this order.

[MANISH PITALE, J]

[S. S. SHINDE , J]