

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

CRIMINAL WRIT PETITION NO.974 OF 2021

Rajeshwar Manikrao Patil ... Petitioner

Vs.

State of Maharashtra & another ... Respondents

Ms.Janhavi Karnik, advocate appointed for the Petitioner

Mr.Deepak Thakare, Public Prosecutor with Mr.S.R. Shinde, APP,
for Respondent – State

**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**

**JUDGEMENT RESERVED ON: APRIL 29, 2021
JUDGMENT PRONOUNCED ON: MAY 4, 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 has filed the present petition for the following substantial relief:

“II. Record and proceedings pertaining to impugned order dated 04th June, 2020 passed by the Respondent No.2 be called for and after examining the legality, proprietary (*sic*)

and validity thereof this Hon'ble Court may be pleased to quash and set aside the said Order."

III. This Hon'ble Court be pleased to allow the Application dated 11th September, 2020 and 10th May, 2020 of the Petitioner on such terms and conditions as this Hon'ble Court may deem fit and proper."

3. The Petitioner herein (Convict No.C-5527), is convicted for the offences punishable under sections 302 and 309 of the Indian Penal Code for life imprisonment and fine of Rs.5,000/-, in Sessions Case No.103 of 2004 on 2.8.2005 by the Sessions Court at Latur.

4. Learned Counsel appearing for the Petitioner submits that the petitioner has undergone more than 16 years of imprisonment and he is lodged in the Nashik Road Central Prison, Nashik. It is submitted that the application of the petitioner to release him on emergency (Covid-19) parole was rejected on the ground that the petitioner was released on parole on 21.9.2015, however, he reported back to the prison late by one day on 23.10.2015.

5. Learned APP 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 inmates are less in number as compared to the capacity of the prison. Utmost care is being taken in the prison by the officers and employees working in the prison, by examining the convicts by thermal scanning and RT–PCR tests. At present, there are no convicts, who are tested positive/Covid-19 affected in the prison. Further, she submits that there was a delay by the petition in reporting back to the prison after being released on parole on 21.9.2015. Therefore, the learned APP submits that the prayer of the petitioner to release him on emergency (Covid-19) parole cannot be considered favourably and the present application be rejected.

6. We have given careful consideration to the submissions of the learned Counsel appearing for the Petitioner and learned APP appearing for the Respondent – State. With the able assistance of learned Counsel appearing for the Petitioner and the learned APP appearing for the State, we have perused the pleadings and grounds in the petition, annexures thereto, impugned order / letter

of understanding and also the report received from the Superintendent of Nashik Road Central Prison, Nashik. Upon a careful perusal of the said report received from the prison authority, it appears that proper care is being taken of the convicts in the prison so as to avoid possibility of contracting Covid-19 virus. In the said report, it is stated that when the petitioner was released earlier on parole leave, he reported late by one day after completion of the period of the parole leave. However, for the said late reporting, the prison authority has punished the petitioner by deducting 5 days remission from the period of his sentence.

7. In that view of the matter, the Writ Petition is allowed. The impugned order dated 4.6.2020 passed by Respondent No.2, is quashed and set aside. The petitioner be released on emergency Covid-19 parole in accordance with the Prisons (Bombay Furlough and Parole) Rules, 1959.

8. Rule is made absolute. The writ petition stands disposed of accordingly.

9. We appreciate the able assistance rendered by Advocate Ms.Janhavi Karnik, appointed for representing the petitioner. We

quantify her fees at Rs.5,000/- to be paid by High Court Legal Services Committee, Mumbai, within four weeks from the receipt of a copy of this order.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)