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

CRIMINAL WRIT PETITION NO. 975 OF 2021

Aftab Saeed Ahmed Shaikh
C/4828, Circle – 3/1,
Nasik Road Central Prison, Nasik

....Petitioner

V/s.

The State of Maharashtra

.....Respondent

Mr. Abhishek Bhadang appointed for the petitioner
Mr. Deepak Thakare, PP a/w Mrs. Sangita D. Shinde APP for the
State

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

**RESERVED ON: 04/05/2021
PRONOUNCED ON: 06/05/2021**

JUDGMENT: (PER: MANISH PITALE, J.)

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

2] A letter dated 16/10/2020 was addressed by the petitioner to
this court seeking relief of being released on emergency parole (Covid-
19). Prayer made on behalf of the petitioner for the aforesaid relief

was rejected by order/letter dated 19/09/2020 passed by respondent Superintendent, Nashik-Road Central Prison.

3] By order dated 12/04/2021, this Court passed an order appointing Advocate Mr. Abhishek Bhadang from the legal aid panel to appear on behalf of petitioner before this Court. Accordingly, today, when the petition was listed for consideration, Advocate Mr. Abhishek Bhadang was heard on behalf of the petitioner. Mr. Deepak Thakre, learned PP submitted a report dated 26/04/2021 before this Court.

4] Mr. Bhadang, learned counsel appointed to appear on behalf of the petitioner submitted that the petitioner has already undergone more than 23 years of imprisonment. It was submitted that even though he is a convict in the Mumbai railway bomb blast case that occurred in the year 1998 and he has been sentenced to suffer imprisonment for life, on four earlier occasions, the petitioner was released by respondent state authorities on furlough/parole. It was submitted that in this backdrop, prayer made on behalf of the petitioner for grant of emergency parole (Covid-19) ought to have been

accepted. By inviting attention of this court to the impugned order dated 19/09/2020, learned counsel for the petitioner submitted that the only reason why the prayer was rejected was, that he was convicted in the said bomb blast case that on one occasion, after being released on furlough leave, petitioner had reported late by 14 days. According to the petitioner, this reason stated in the impugned order is not sustainable and that the petitioner deserves to be granted relief of emergency parole (Covid-19).

5] On the other hand, learned PP, submitted that while convicting the petitioner for aforesaid serious offence concerning Mumbai railway bomb blast case, Sessions Court itself had specifically recorded that State Government is directed not to act liberally, while entertaining any request of the accused for commutation or remission of sentence, considering the seriousness of nature of offence committed by the accused. By placing emphasis on the same, learned PP submitted that petitioner did not deserve to be treated in a liberal manner. Apart from this, it was submitted that admittedly, the petitioner had reported late by 14 days on one occasion while

being released on furlough leave. Learned PP further submitted that considering the present condition of the number of inmates in the Nashik-Road Central prison, the petitioner did not deserve to be released on emergency parole (Covid-19).

6] Heard learned counsel for rival parties and also considered the material on record. There is no dispute about the fact that the petitioner has already undergone more than 23 years of imprisonment for being convicted in a serious case involving serial bomb blasts in trains in Mumbai in the year 1998. Yet, record shows that despite serious nature of offence for which the petitioner stood convicted and even when the Sessions Court had made the aforementioned observations while convicting and sentencing the petitioner, respondents themselves had granted furlough/parole leave to the petitioner on four earlier occasions. Perusal of the impugned order dated 19/09/2020 shows that on earlier occasions, respondent authorities itself had granted parole leave to the petitioner.

7] It is also clear from the record that the petitioner reported back

on time on three occasions and only on one occasion, he reported late by 14 days. It is sought to be explained on behalf of the petitioner that even on this occasion, when he returned late after 14 days, the petitioner had applied for extension of his parole leave and such application was under consideration. It was when the petitioner came to know that the said application for extension of parole leave was not being favorably considered, that he himself reported back to the jail authorities. Thus, it is clear from the record that despite conviction of the petitioner for the aforesaid serious offence and his being sentenced for imprisonment for life, respondent jail authorities themselves had granted furlough/parole leaves to him.

8] An apprehension has been expressed on behalf of respondents that since emergency parole (Covid-19) once granted for 45 days, is liable to be extended for period of 30 days as long as Government Notification regarding pandemic is in force, there is every likelihood of the petitioner remaining out of the jail for a long period of time. It is submitted that therefore, prayer made on behalf of the petitioner may not be granted.

9] But, the said apprehension expressed by the respondent State can be taken care of by directing release of the petitioner on regular parole for a period of 30 days instead of acceding to his prayer for grant of emergency parole (Covid-19). We are of the opinion that since the petitioner is convicted of aforesaid serious offence concerning Mumbai train blasts, it would be appropriate and in the interest of justice, the petitioner is granted regular parole instead of relief of emergency parole (Covid-19) for a long period of time. Considering that on one occasion that the petitioner had reported late by 14 days, we are of the opinion that specific direction is necessary in the present case for the petitioner to surrender after period of parole being granted by this Court is over.

10] In view of above, the writ petition is partly allowed. Respondent state authorities are directed to release the petitioner on parole for a period of 30 days subject to usual conditions and requirements prescribed in **Prisons (Bombay Furlough and Parole) Rules, 1959**. The petitioner shall surrender before respondent Superintendent,

Nashik-Road Central Prison upon expiry of aforesaid period of 30 days.

11] Writ petition is partly allowed and Rule is made absolute in the above terms.

[MANISH PITALE, J.]

[S. S. SHINDE, J.]