

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1131 OF 2021

Manojkumar Satyanarayan Paswan
@ Gabbar

: Petitioner.

The State of Maharashtra & Anr.

: Respondents.

Mr. Manoj Gupte, appointed advocate for the Petitioner – Absent.
Mr. Deepak Thakre, PP a/w Mrs. S D Shinde, APP for the Respondent/State.

CORAM : S. S. SHINDE,
MANISH PITALE, JJ
DATE : 29th APRIL 2021

P. C.

1 The Petitioner has filed the present petition through jail for the following substantial relief:

“(b) To quash & set aside the impugned order passed by the Superintendent, Central Prison, Nashik Road & allow the Petitioner to be released on emergency parole in whatever conditions the Hon’ble Court may deem fit.”

2 The Petitioner herein (Convict No.C/9361) has been convicted for the offences punishable under sections 376, 363, 366 of the Indian Penal Code by the learned Sessions Judge, City Civil and Sessions Court, Borivali Division, Dindoshi, Mumbai on 08/05/2014 in Sessions Case No.117/2012 and sentenced him to suffer RI for 10 years and to pay fine of Rs.15000/- in default

sentence to suffer imprisonment for 1 year and 6 months. The Petitioner has undergone the sentence of 6 years 7 months 17 days.

3 The Petitioner had applied for grant of emergency Covid-19 parole in view of the Covid-19 Pandemic. However, the said application was rejected by the Respondent-Authority vide order dated 28/09/2020 on the ground that when the Petitioner was released on parole in past, he was reported late to the Jail Authority by 842 days, and in view of Government Notification dated 08/05/2020 the Petitioner was not entitled to be released on emergency parole.

4 When the matter is called out through video conferencing the advocate appointed to represent the Petitioner in this Petition is not present.

5 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. Further, the petitioner had jumped parole granted to him in 2016 as he had to be arrested and brought back to the prison by the police on 26/06/2018 after a delay of 842 days. 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 APP appearing for the Respondent – State. With the able assistance of 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 04/02/20216 on parole, he did not report on time after completion of the period of the parole, and he was required to be arrested by police on 26/06/2018, and brought back to the jail after 842 days from the date of

expiry of his parole period. The Superintendent, Nashik Road Central Prison, Nashik, has expressed an apprehension that in case the petitioner is released on parole, he may abscond and may not come back to the jail. The apprehension expressed by the respondent – authority is well founded inasmuch as when the petitioner was earlier released on parole, he did not report back on completion of the period of parole, and thereafter, he was arrested and brought back to the jail after 842 days.

7 In that view of the matter, we are not inclined to entertain the prayer of the petitioner to release him on Covid – 19 parole. Hence, the petition is rejected. However, the Petitioner would be entitled to apply afresh after completion of statutory period provided under the relevant Rules.

[MANISH PITALE, J]

[S. S. SHINDE , J]