

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 630 OF 2021**

Rajesh Sangamlal Jaiswal

..... Petitioner.

V/s

The State of Maharashtra

..... Respondents.

Mr. Mandar Soman appointed advocate for the Petitioner **(Absent)**.

Mr. Deepak Thakre, PP a/w Mr. S.R. Shinde, APP for the State.

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

DATE: APRIL 29, 2021

P.C.:-

1] The advocate who is appointed for the Petitioner is not present.

In view of the emergency, Petition is taken up for hearing forthwith.

2] Being aggrieved by the impugned order dated 19th September 2020 passed by the Superintendent, Nashik Road Central Prison, Nashik, this Petition is filed by the Petitioner.

3] The learned APP has placed on record the report submitted by the Superintendent, Nashik Road Central Prison, Nashik. Perused the

Report.

4] Heard the learned APP for the State.

5] Upon perusal of the impugned order, it appears that the application filed by the Petitioner to release him on emergency covid parole has been rejected on the ground that the Petitioner was never released on furlough/parole.

6] The Petitioner is convicted for the offence punishable under Sections 376(2)(g), 366-A read with Section 34, 292 read with Section 34, 500 read with section 34, 506(2) read with section 34 of the IPC and Section 67 of the Information Technology Act.

7] The Petitioner has applied for emergency covid parole. His application has also been turned down by the Respondents/concerned authorities on the ground that the Petitioner is convicted for serious offence.

8] The learned APP submitted that in view of Rule 4(12) and (21)

of the Prisons (Bombay Furlough and Parole) Rules, 1959 (For short “the said Rules”) Petitioner is not entitled to the relief sought.

9] Rule 4(12) and (21) of the said Rules read as under:-

“4. Eligibility for furlough:-

All Indian prisoners except from following categories whose annual conduct reports are good shall be eligible for furlough:-

(1).....to (11).....

(12) Petitioners who are considered dangerous or have been involved in serious prison violence like assault, outbreak, riot, mutiny or escape, or who have been found to be instigating the serious violation of prison discipline, smuggling of narcotic and psychotropic substances including convicted under Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), rape or rape with murder, attempt to rape with murder and foreigner prisoners (Prisoners may be eligible for furlough after completion of stipulated sentence in the respective section);

(13)..... to (20).....

(21) Those involved in sexual offences against minor and human trafficking.”

10] In our opinion, in view of the aforesaid provision and in the absence of challenge to the said Rules, the Petitioner is not entitled to emergency covid parole.

11] Hence, the Writ Petition stands rejected.

12] Registry shall communicate this order to the Superintendent, Nashik-Road Central Prison, Nashik. In addition to the same, the learned APP shall also send a copy of this order to the Superintendent, Nashik Road Central Prison, Nashik.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)