

JPP

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

CRIMINAL WRIT PETITION NO. 2263 OF 2021

Salim Baig Umar Baig

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Ms. Gauri Velankar, Advocate appointed through Legal Aid for the
Petitioner

Mr. K.V. Saste, APP for the Respondent - State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 18 NOVEMBER 2021

P.C. :-

By this Petition the Petitioner has sought Emergency
(Covid-19) Parole which has been rejected by the impugned order.

2. The impugned order states that the Petitioner when
released on 6 June 2011, overstayed for 783 days and had to be
arrested. The learned APP has placed on record subsequent order
rejecting the prayer for emergency parole dated 2 June 2021. The
learned APP has also placed the chart before us that the Petitioner
when was released three times earlier, habitually overstayed for 14
August 2007 parole returned after 533 days, on 22 August 2010,

592 days and on 26 August 2013, 783 days. The learned APP submits that the emergency parole is under Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959 (as amended by Amendment Rules, 2020) is provided for in view of the situation brought about by the pandemic and spread of infection in the Jails and it is in this background that the Petitioner's request was considered.

3. The right of the Petitioner under the amended Rule 19(C) of Rules, 1959 to be granted emergency parole is in view of the situation brought about by the pandemic and the authorities while considering the request will have to balance various factors. In the present case, the Respondent – Authorities have taken note of the earlier conduct of the Petitioner and also the subsequent reduction in the infection and after balancing these two factors has rejected the application.

4. We do not find that the authorities have taken into consideration any irrelevant criteria. After balancing these two factors present in the fact situation of the case, the discretion used vested under the Rules cannot be considered as arbitrary or perverse. No interference is warranted.

5. The Writ Petition is accordingly rejected.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

**JYOTI
PRAKASH
PAWAR**

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Date: 2021.11.24
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