

JPP

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

CRIMINAL WRIT PETITION NO. 2938 OF 2021

Walmik @ Santosh Govind Pawar

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Karan Kadam, Advocate appointed through Legal Aid for the
Petitioner

Ms. S.D. Shinde, APP for the Respondent - State

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

DATE : 18 NOVEMBER 2021

P.C. :-

By this Petition the Petitioner seeks to be released on Emergency (Covid-19) Parole. The request of the Petitioner was rejected by the Respondent – Authorities by the impugned order on the ground that the Petitioner has not been granted parole or furlough leave earlier and reliance is placed on Rule 19(1)(C) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959.

2. During the pendency of this Petition, by order dated 8 July 2021, the application for emergency parole is again rejected. In the order dated 8 July 2021 also the ground of not having availed parole or furlough leave is reiterated. In addition, it is stated that

since the Petitioner has undergone imprisonment only for 3 years, 7 months and 17 days, the same is of short duration and therefore, prayer for grant of emergency parole cannot be considered as the Petitioner is likely to abscond.

3. As regard the first ground of not having granted parole or furlough earlier, this Court in the case of *Roshal Ali Din Mohmed Mukhiya Shaikh v. State of Maharashtra*¹ has set aside such stipulation of such condition. Therefore, on this Court, the Petitioner's request cannot be rejected. As regard the grant of period of imprisonment being short, no reference is made to any rule or guidelines issued. It is not clear as to how from the period or punishment undergone a direct inference that the Petitioner will abscond is drawn. On this count, the order is entirely non-speaking.

4. In the light thereof, both these orders cannot be sustained and the authority is required to reconsider the issue. Accordingly, the Writ Petition is disposed of by quashing and setting aside the impugned order as well as the order dated 8 July 2021 tendered in the Court and directing the Respondent – Authorities to take a fresh decision on the Petitioner's application within a period of five weeks and communicate the same to the Petitioner.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

¹ Cri.WP No.2115/2021 & Ors. decided on 28 October 2021.