

*JPP*

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

***CRIMINAL WRIT PETITION NO. 2964 OF 2021***

Gurumitsing Sevadar Rajsingh

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Gaurav Sharma, Advocate appointed through Legal Aid for the  
Petitioner

Mr. J.P. Yagnik, APP for the Respondent - State

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

***DATE : 18 NOVEMBER 2021***

**P.C. :-**

The Petitioner has challenged the rejection of his application seeking Emergency (Covid-19) Parole.

2. The ground for rejection given in the impugned order is that the Petitioner has not been granted parole or furlough earlier and therefore, his application cannot be considered. Such a stipulation has been held as unlawful by this Court. Reference can be made to the order passed in the case of *Roshal Ali Din Mohamed*

*Mukhiya Shaikh v/s. State of Maharashtra*<sup>1</sup>. Therefore, this ground cannot be sustained.

3. The learned APP has placed on record subsequent order passed on 8 July 2021 rejecting the application of the Petitioner again. In this order the reason given is that because there is a second case pending against the Petitioner, the Petitioner is likely to abscond. How the pendency of the second case automatically will result in an apprehension that the Petitioner will abscond is not specified with reference to any fact situation. We have not been shown any legal position that pendency of second case by itself is a ground for rejection of the Emergency Parole. If the Respondent – Authorities have an apprehension that the Petitioner is likely to abscond, such an apprehension must be with reference to some report or facts. Since the order is non-speaking in this regard, it will have to be set aside and is accordingly set aside.

4. The Petition is disposed of by quashing and setting aside the order dated 8 July 2021 and the order dated 28 September 2021 and the Respondent – Authorities will take a fresh decision as per law within a period of five weeks and inform the Petitioner of the outcome.

***SARANG V. KOTWAL, J.***

***NITIN JAMDAR, J.***

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<sup>1</sup> Cri.W.P.2115/2021 & Ors. dtd. 28 October 2021