

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO.1954 OF 2021
IN
CRIMINAL WRIT PETITION NO.1979 OF 2021

Sharafat Ali Liyakat Ali Shaikh : Applicant
versus
The State of Maharashtra and anr. : Respondents.

Ms. Shraddha Vavhal i/by Mr. M S Ansari for the Applicant.
Mr. J P Yagnik, APP for the Respondents/State.

CORAM : S. S. SHINDE,
N. J. JAMADAR, JJ

DATE : 25th August 2021

P.C.

1 This Interim Application is filed by the Applicant for the following relief :-

“B) *The Emergency Parole Leave of 45 days granted by this Hon’ble Court vide order 19/05/2021 be extended till further period as may be deemed fit and proper.*”

2 The learned counsel appearing for the Applicant submits that the Applicant was ordered to be released on emergency covid-19 parole leave by the Division Bench of this Court (Coram : S. J. Kathawalla and Surendra P Tavade, JJ) vide order dated 19th May 2021. It is submitted that if a convict is released on emergency parole, on completion of 45 days period, the said period should have been automatically extended for 30 days on every occasion.

However, in case of the present Applicant, the said period is restricted to 45 days.

3 The learned APP appearing for the Respondent/State submits that pursuant to the directions as contained in the order dated 19th May 2021 passed by the Division Bench of this Court, the concerned Respondent/Authority released the Applicant on parole for 45 days as liberty was given to the competent authority by the said order to specify the period.

4 Pursuant to the notification dated 08th May 2020 issued by the Department of Home, Government of Maharashtra, in Sub-Rule (1) of Rule 19 of the Maharashtra Prisons (Mumbai) Furlough and Parole) Rules, 1959, after clause (B), the following clause (C) is added, which reads thus :-

“(C) On declaration of epidemic under the Epidemic Diseases Act, 1897, by State Government :

- (i) For convicted Prisoners whose maximum punishment is 7 years or less, on their application shall be favorably considered for release on emergency parole by the Superintendent of Prison for a period of 45 days or till such time that the State Government withdraws the Notification issued under the Epidemics Diseases Act, 1897, whichever is earlier. The initial period of 45 days shall stand extended periodically in blocks of 30 days each, till such time that the said Notification is in force (in the event the said Notification is not issued within the first 45 days). The convicted prisoners shall report to the concerned police station within whose jurisdiction they are residing, once in every 30 days.

- (ii) For convicted prisoners whose maximum sentence is above 7 years shall on their application be appropriately considered for release on emergency parole by Superintendent of Prison, if the convict has returned to prison on time on last 2 releases (whether on parole or furlough), for the period of 45 days or till such time that the State Government withdraws the Notification issued under the Epidemics Diseases Act, 1897, whichever is earlier. The initial period of 45 days shall stand extended periodically in blocks of 30 days each, till such time that the said Notification is in force (in the event the said Notification is not issued within the first 45 days). The convicted prisoners shall report to the concerned police station within whose jurisdiction they are residing, once in every 30 days :

Provided that the aforesaid directions shall not apply to convicted prisoners convicted for serious economic offences or bank scams or offences under Special Acts (other than IPC) like MCOC, PMLA, MPID, NDPS, UAPA etc. (which provide for additional restrictions on grant of bail in addition to those under the Code of Criminal Procedure, 1973 (2 of 1974) and also presently to foreign nationals and prisoners having their place of residence out of the State of Maharashtra. ”

5 In view of the aforesaid provision, on completion of 45 days parole leave period, there should have been automatic extension of 30 days on each occasion.

6 In that view of the matter, the Applicant be released on parole forthwith on the fresh application of the Applicant on same bond and the conditions, which were imposed earlier while releasing the Applicant on parole for 45 days. The Respondent/Authority may not delay the process. After

release of the Applicant on parole, the concerned Authority shall strictly follow the aforesaid provisions and on completion of 45 days period of parole leave, the said period of 45 days shall automatically stand extended for a period of 30 days in accordance with Rule 19(1)(C)(ii) till the Notification issued by the State of Maharashtra under the Epidemic Diseases Act, 1897 is in force.

7 With the above observations, the Criminal Interim Application is allowed and disposed of.

8 All concerned parties to act upon an ordinary copy of this order duly authenticated by the Court Sheristedar.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]