

JPP

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

CRIMINAL WRIT PETITION NO. 2370 OF 2021

Rakesh @ Duchkya Chandrakant Tadavi

... Petitioner

V/s.

The State of Maharashtra

... Respondent

None for the Petitioner

Ms. A.S. Pai, P.P. for the Respondent – State

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

DATE : 16 DECEMBER 2021

P.C. :-

The Petitioner is seeking Emergency (Covid-19) Parole which was rejected by the impugned order dated 28 September 2020.

2. The ground for rejection is that as per Rule 19(C) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, those prisoners who are residents of other country or outside the State of Maharashtra are not entitled for emergency parole. This is only a reference to a Rule and there is no finding or assertion that the Petitioner is either the resident/citizen of other country or resident

outside the State of Maharashtra. Only on such reference to a Rule, the application cannot be rejected. Nothing else has been considered. Therefore, the order will have to be set aside and the authority will have to be directed to take a decision afresh.

3. Accordingly, the Writ Petition is disposed of by quashing and setting aside the impugned order dated 28 September 2020 and that the Respondent – authority will take a decision in a specific reference to the facts of this case, as regard the stipulation contained in the order dated 28 September 2020 or any other position of law as may be applicable within a period of four weeks from today and communicate the same to the Petitioner.

4. The Writ Petition is accordingly disposed of.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

**JYOTI
PRAKASH
PAWAR**

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by JYOTI
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Date: 2021.12.21
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