

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2337 OF 2021

Bansilal Supdu @ Subhash More .. Petitioner

v/s.

The State of Maharashtra & Anr. .. Respondents

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Mr. Ajinkya Udane, i/b. Abhishek Avachat, Advocate appointed through Legal Aid.

Mrs. M.H. Mhatre, APP, for Respondent State.

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CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.

DATE : 18 NOVEMBER 2021.

P.C:-

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

2. After the petition was filed, the application of the Petitioner was considered and the Petitioner was granted the Emergency Parole by order dated 24 June 2021.

3. The learned Counsel for the Petitioner states that the Petitioner is satisfied with the order passed on 24 June 2021 releasing

him on Emergency Parole except that two conditions imposed therein which the Petitioner is not able to satisfy and is not liable to comply.

4. As regards the condition stipulated in the order dated 24 June 2021 that the Petitioner must furnish surety of a Government Officer, the Division Bench of this Court in order passed in *Kavita Dilip Baviskar vs. State of Maharashtra*¹ has observed that such condition cannot be imposed in law and has substituted the said condition with surety of a relative and a friend. Therefore, the ground that the Petitioner must provide for surety of a Government Officer cannot be sustained. Accordingly, this ground in the order dated 24 June 2021 is set aside.

5. As regards the condition of imposition of Rs.50,000/- as cash surety in the order dated 24 June 2021 is concerned, when asked to the learned APP as to why such excessive cash security has been imposed, as we found in various other cases same is ranging from Rs.10,000/- to Rs.15,000/-, it was informed that the Petitioner was never released on parole or furlough and therefore higher cash security is imposed. The Division Bench of this Court in *Roshal Ali Din Mohmed Mukhiya Shaikh vs. State of Maharashtra*² after referring to earlier orders passed by different courts has observed that no distinction can be made as regards those who have never been granted

¹Writ Petition 571 of 2020 (Aurangabad Bench) dated 30 June 2020

²Order passed on 28 October 2021 in Criminal Writ Petition No.2115 of 2021 and others

parole or furlough earlier and those have been granted, for consideration of emergency parole. Learned Counsel for the Petitioner submits that the Petitioner is not able to furnish cash surety of Rs.50,000/-. According to us, in the facts of this case, the Petitioner cannot be prejudiced in this manner.

6. Therefore, we modify Clause 5 of order dated 24 June 2021 and replace the amount of Rs.50,000/- as cash security to Rs.15,000/- and substitute the condition of surety of Government Officer of Rs.20,000/- to the surety of any relative or friend of Rs.20,000/- in addition to the surety of relative already provided. Rest of the conditions in the order dated 24 June 2021 are maintained.

7. The writ petition is disposed of in above terms granting benefit to the Petitioner of the order dated 24 June 2021 with modified conditions as above.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)