

JPP

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

CRIMINAL WRIT PETITION NO. 2326 OF 2021

Pandurang Soma Wadle

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Ms. Priyanka Chavan, Advocate appointed through Legal Aid for the
Petitioner

Ms. A.S. Pai, APP for the Respondent - State

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

DATE : 18 NOVEMBER 2021

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner's prayer to be released on Emergency (Covid-19) Parole is rejected by the impugned order dated 28 September 2020 passed by the Respondent – Superintendent of Nashik Road Central Prison. The reason given for rejection is that the Petitioner is never been released on parole or furlough earlier. The stipulation had come up for consideration of this Court in various cases and in the order dated 28 October 2021 in Criminal

Writ Petition No. 2115 of 2021 and Ors., the Division Bench referring to earlier cases has set aside the stipulation and had remanded the case for fresh consideration.

3. Therefore, the stipulation in the impugned order as above cannot be sustained and will have to be set aside and is set aside. However the second prayer of the Petitioner that he be granted emergency parole on some other ground cannot be considered in view of the statutory bar contained in the proviso to Rule 19(C) of the Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment), Rules 2020, wherein the prisoner convicted under the special acts is not entitled to be granted the emergency parole. The Petitioner is convicted under the provisions of Protection of Children against Sexual Offences (POCSO) Act, 2012. The Full Bench of this Court in the case of *Pintu s/o. Uttam Sonale vs. State of Maharashtra*¹ has held the convictions under POCSO will fall within the ambit of Special Acts referred to in Rule 19(1)(C) (ii) of the Rules of 1959. Therefor there being a statutory bar, this prayer of the Petitioner to be released on Emergency (Covid-19) Parole, cannot be granted.

4. The Writ Petition is rejected.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

¹ Cr.WP (St.) 3206/2020 dtd. 6 November 2020