

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3922 OF 2021

Morsingh @ Pintu Sonu Pawar Petitioner

Versus

The State of Maharashtra and others Respondent

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Mr. Swaraj Jadhav, Advocate for the Petitioner.

Ms. M.H. Mhatre, APP for the Respondent-State.

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

DATE : 15 NOVEMBER 2021

P.C.

. Heard the learned counsel for the parties.

2. The Petitioner was convicted by the judgment and order dated 30 May 2017 under Sections 363, 120-B, 302, 201 read with 34 of the Indian Penal Code and is sentenced to suffer imprisonment for life. The appeal filed by the Petitioner challenging his conviction is pending.

3. The Petitioner filed an application on 1 June 2021 to be released on emergency parole. The application was granted on 7 June 2021 on certain conditions. The Petitioner has challenged the condition stipulated in the order dated 7 June 2021 granting emergency parole that the Petitioner should produce a surety of

Government Servant of rupees twenty thousand. According to the Petitioner such a condition is unwarranted and in the case of the Petitioner it is also impracticable to be furnished considering the social strata from which the Petitioner hails.

4. It is not necessary for us to elaborate upon this controversy as the admitted position at the bar, is that identical cases is that such a condition has been set aside in series of order of this Court. Learned Counsel have placed before us the orders passed in the cases of *Rakesh Mukhnath Sharma Vs. The State of Maharashtra & Ors.*¹, *Rakesh Ramsamuj Rai (brother of the petitioner Brijesh Rai) Vs. The State of Maharashtra*², *Indarsing Padkya Pawara Vs. State of Maharashtra*³ and *Mohd. Amir Shaikh Mohd. Vs. The State of Maharashtra & Ors.*⁴. We have perused these orders. A consistent view has been taken by this Court that insisting upon furnishing a surety of Government Servant will not be justified and the Court has substituted such condition by two sureties – one being independent person and another a family member/related having good conduct. Nothing is placed before us as to why the Petitioner is not entitled to the benefit of this view taken. We are not informed that any of these orders are challenged by the State.

5. Accordingly the petition is disposed of by quashing and setting aside the condition in the order dated 7 June 2020 of

1 Decided by this Court on 4 August 2021 in Writ Petition No.2728/2021.

2 Decided by this Court on 14 September 2021 in Writ Petition No.3203/2021.

3 Decided by this Court on 27 September 2021 in Cri Writ Petition No.3350/2021.

4 Decided by this Court on 3 November 2021 in Writ Petition No.4097/2021.

furnishing a surety of Government Servant in the amount of Rs. Twenty Thousand. The Petitioner be released on emergency parole on furnishing two sureties – one of independent person and other of family member, friend or relative having good conduct of Rs. Twenty Thousand each. Rest of the conditions in the order dated 7 June 2021 are maintained as it is.

6. The Writ Petition is accordingly disposed of. The authorities to act on the authenticated copy of this order.

7. Since the condition has been set aside in series of matters and the State has accepted the orders, there is no reason why the State should keep imposing this condition, creating needless litigation, and forcing the convicts to approach the Court.

8. The office of the Public Prosecutor will furnish a copy of this order and the copies of the orders which are referred to in the present order to the Secretary, Home Department, Mantralaya. The Secretary will consider issuing necessary directions in respect of this condition.

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by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
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(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

Deshmane (PS)