

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4196 OF 2021

Kushal @ Akash Dattatray Prabhu .. Petitioner
v/s.
The State of Maharashtra .. Respondent

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Ms. Anjali Navle, for the Petitioner.

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

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

DATE : 10 DECEMBER 2021.

P.C:-

Heard learned Counsel for the Petitioner. The Petitioner's application for Emergency (Covid-19) Parole was rejected by the impugned order dated 8 March 2021 passed by the Respondent Superintendent, Nashik Road Central Prison.

2. The ground given for rejection is that the Petitioner is convicted under Section 364-A read with Section 34 of Indian Penal Code. As per Rule 4(13) of the Prisons (Bombay Furlough and Parole) Rules, 1959, one who is sentenced for offences such as terrorist crimes, mutiny against state, kidnapping for ransom would not be entitled to

Emergency Parole. The Petitioner's entitlement is based on Amended Rule 19(C) of the Rules of 1959.

3. The learned Counsel for the Petitioner submits that for consideration of Rule 19(C) for Emergency Parole, provisions of Rule 4 in its entirety, which speaks eligibility for furlough cannot be directly made applicable otherwise object of emergency parole will be lost. It is also contended that Rule 19(C) does not make any reference to conviction under Section 364-A as ground of rejection.

4. As regards the contention based on Rule 4 is concerned, it is not necessary to examine that issue since the High Power Committee set up in the State of Maharashtra, which has given its report as to which are the categories in which Emergency (Covid-19) Parole be granted, has excluded Section 364-A of the Indian Penal Code for entitlement. The report has been accepted. The categorization was challenged in this Court. The challenge was negatived and the order passed by this Court was confirmed by the Supreme Court. The recommendations and stipulations of the High Court Committee confirmed by the Supreme Court will be in addition to Rule 19(C) of the Rules of 1959. Thus the offence for which the Petitioner is convicted falls in the category of exclusions in the report of the High Power Committee, no relief can be granted to the Petitioner.

5. Writ petition is accordingly rejected.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)