

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CRIMINAL WRIT PETN. NO. 75 OF 2021**

**PETITIONER :-** Mahadev Ravindra Kapde (C-4806),  
Aged about 30 years, Occ.: NA, R/o.  
Deshmukh Plot, Near Chote Ram Mandir,  
Tah. Khamgaon, District Buldhana.

**...VERSUS...**

**RESPONDENTS :-** 1. State of Maharashtra, through D.I.G.  
Prison (East), Nagpur.  
  
2. Divisional Commissioner, Amravati, Dist.  
Amravati.

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None for the petitioner.  
Ms N.R.Tripathi, A.P P for the respondents.  
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**CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.**

**DATED : 20.04.2021.**

**ORAL JUDGMENT** : (Per : Amit B. Borkar, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.
3. The petitioner has invoked extraordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India by

challenging order dated 07/07/2020 passed by respondent No.2. The petitioner is convicted for the offences punishable under sections 364-A, 366, 387 and 307 of the Indian Penal Code and is undergoing sentence of imprisonment for life. The conviction and sentence of the petitioner has been confirmed by this Court in Criminal Appeal No.107 of 2016. The petitioner has been lodged in the Amravati Central Prison.

4. The petitioner on 29/01/2020 applied for parole leave on the ground of serious illness of his mother. The petitioner had annexed medical certificate in support of the ground of serious illness of his mother. The respondent No.2, by impugned order dated 07/07/2020, has rejected the parole leave application on the ground that the petitioner is not eligible under Rule 4(13) of the Maharashtra Prisons (Bombay Furlough and Parole Leave) Rules, 1959. The petitioner has therefore challenged order dated 07/07/2020 by filing the present writ petition.

5. This Court on 25/01/2021 issued notice for final disposal. The respondent No.1 has filed reply stating that the petitioner has been convicted for the offence punishable under section 364-A, 366, 387 and 307 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for life. It is further stated that the petitioner has not submitted documents to prove illness of his mother. It is stated that the

petitioner is not eligible as per Rule 4(13) of the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 1959 as amended by the Government Notification dated 26/08/2016, which is reproduced below:

*“4. When prisoners shall not be granted furlough.–  
The following categories of prisoners shall not be considered for release on furlough :-*

*(13) Prisoners convicted for offence such as dacoity, terrorist crimes, kidnapping, smuggling including those convicted under the Narcotic Drugs and Psychotropic Substance Act, 1985 (61 of 1985) and foreign prisoners.”*

6. Since it is not in dispute that the petitioner has been convicted for the offences punishable under sections 364-A, 366, 387 and 307 of the Indian Penal Code, the impugned order rejecting parole leave on the ground of ineligibility of the petitioner cannot be faulted with. In view of Rule 19 of the Rules of 1959 only those prisoners are entitled to parole, who are eligible for parole. In view of Rule 4(13) of the said Rules, we are satisfied that the order passed by respondent No.2 is neither illegal nor perverse. There is no merit in the petition and the same is dismissed.

7. Rule stands discharged.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)