

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

CRIMINAL WRIT PETITION NO. 170 OF 2021

PETITIONER :- Atik Ahmed Sheikh Nazir,
C-3132, Aged About 45 years
Occup. Nil. (Presently in Central Prison
Amravati).

...VERSUS...

RESPONDENTS :- 1. State of Maharashtra through
Superintendent of Jail, Central Jail,
Amravati.

2. Divisional Commissioner, Amravati
Division, Amravati.

3. The Deputy Inspector General of Prison,
Eastern Region, Nagpur.

Mr.R.L.Kadu, counsel for the petitioner.
Ms.N. Tripathi, APP for the State.

CORAM : SUNIL B.SHUKRE &
AVINASH G. GHAROTE, JJ.

DATE : 22.02.2021.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

1 Heard.

2. Rule. Rule made returnable forthwith. Heard finally
by consent of the learned counsel appearing for the petitioner and

learned Additional Public Prosecutor, who appears by waiving notice for the respondents.

3. The petitioner challenges the impugned order on the ground that it is based upon a wrong reason of the petitioner surrendering before the jail authorities not in time on two occasions. According to him, the petitioner was lastly released on 19.03.2015 and also on 18.01.2020, out of which, the petitioner had admittedly reported back to the jail authorities on the due date on one occasion, though the petitioner had reported back to the jail authorities in the year 2015 belatedly, and the delay was of 285 days. According to him, if the petitioner had surrendered on the due date, on any one occasion out of the last two occasions, the petitioner becomes entitled to be released on Covid-19 parole according to G.R dated 08.05.2020.

4. The learned counsel for the petitioner places reliance upon the judgment of the co-ordinate Bench of this Court dated 30.06.2020, rendered in Criminal Writ Petition No.571 of 2020 and judgment dated 04.08.2020 and also few more judgments, copies of which he has annexed to this petition. The other judgments have been delivered respectively on 10.07.2020 in

Criminal Writ Petition No.627 of 2020, 04.08.2020 in LD-VC- Criminal Writ Petition No.345 of 2020 and in LD-VC- Criminal Writ Petition No.370 of 2020, 04.08.2020 in Criminal Writ Petition No.761 of 2020, 18.08.2020 in Criminal Writ Petition No.310 of 2020, 25.08.2020 in Criminal Writ Petition No.247 of 2020, 28.08.2020 in Criminal Writ Petition (ASDB-LD-VC) No.265 of 2020 , 26.10.2020 in Criminal Application No.1896 of 2020 , 10.12.2020 in Criminal Writ Petition St. No.2592 of 2020 and in Criminal Writ Petition St. No.3484 of 2020.

5. Ms. Tripathi, learned Addl. Public Prosecutor for the respondents submits that all these judgments are on a point when no occasion to show compliance with the condition of reporting in time to the jail authorities on each of the last two releases did arise, then such condition of the G.R. dated 08.05.2020 would not apply.

6. On going through these judgments, we find a great substance in the argument of learned Addl. Public Prosecutor and therefore, we hold that the condition which prescribes that in order to be eligible for Covid-19 parole, in addition to fulfillment of the other conditions stated in the G.R dated 08.05.2020, a

prisoner must also have reported back to the jail authorities well in time on each of the occasions of his last two releases would have to be fulfilled only if the petitioner had been released earlier on two or more occasions. It would also be applicable if the petitioner had been released earlier only on one occasion, but in a limited way in the sense that his conduct would be judged by considering his timely or untimely surrender before jail or on the last occasion.

7. In the present case, admittedly, the petitioner had been released at least on 15 occasions and the last two of the occasions were those which arose on 19.03.2015 and 18.01.2020. While, the petitioner had surrendered well in time, on the occasion of 18.01.2020, he was late in surrendering by 285 days on the occasion of 19.03.2015. So, it is clear that the petitioner did not fulfill one of the criteria of G.R. dated 08.05.2020 and therefore, we do not see any infirmity in the impugned order. The petition is dismissed.

Rule is discharged.

JUDGE

JUDGE