

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

CRIMINAL WRIT PETITION NO.479 OF 2021

Vinod Ramchandra Kalbande, Central Prison, Nagpur

-vs-

Superintendent of Prison, Central Jail, Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. R. Jaiswal, Advocate for petitioner (Appointed).
Smt Sangita Jachak, Additional Public Prosecutor for respondent.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.

DATE : August 17, 2021

The petitioner is aggrieved by the order dated 02/06/2021 passed by the respondent rejecting his application for his release on parole leave as per Notification dated 08/05/2020. The respondent in view of Rule 19(1)(C)(ii) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959 (for short, the Rules of 1959) as amended was pleased to reject the said application on the ground that on two earlier occasions the petitioner after his release has reported late.

We have heard the learned counsel for the parties and we have perused the material on record. In the reply filed on behalf of the respondent it has been stated that when the petitioner was released on furlough on 06/01/2014 he reported late by sixty two days and on 29/02/2016 he reported late by one day. Perusal of Rule 19(1)(C)(ii) of the Rules of 1959 as amended makes it clear that a convict is entitled for release on parole on declaration of epidemic under the Epidemic Diseases Act, 1897 if the convict has returned to prison on time on his last two releases. As stated above it is undisputed that the

petitioner reported late on his last two releases. In view of the special facility extended to convicts on account of declaration of the epidemic, it is clear that the petitioner is not entitled for such release under Rule 19(1)(C)(ii) of the Rules of 1959 since his case is not covered by the said provision.

Thus while maintaining the order passed by the respondent on 02/06/2021, it is made clear that if the petitioner seeks his release on parole/furlough under the Rules of 1959 other than Rule 19(1)(C)(ii) it is open for the respondent to consider that request on its merits in accordance with law.

The writ petition is accordingly disposed of.

The fees of the learned counsel appointed are quantified at Rs.2500/-.

JUDGE

JUDGE