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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.488/2020

Mohd. Faruque Mohd. Yusuf,
C-4380, Aged about Major,
Occu: Nil (Presently in Central
Prison Amravati)

..... PETITIONER

// VERSUS //

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. RESPONDENTS

Shri S. D. Chande, Advocate with Shri Raju Kadu,
Advocate for petitioner
Ms. T. H. Khan, APP for the respondents.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 02/02/2021

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

- 1] Heard. **Rule.** Rule made returnable forthwith.
- 2] Heard finally by consent of the learned counsel
appearing for the parties.

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3] It is not in dispute that what petitioner is seeking here is emergency parole under Rule 19(1)(C) of the Prisons (Bombay Furlough and Parole) Rules, 1959 (hereinafter referred to as the “Rules, 1959”) on the ground of Covid-19 pandemic, in terms of newly added Clause (C), vide Government notification dated 8th May 2020. Since this ground of Covid-19 parole has been newly added in Sub Rule (1) of Rule 19 of the Rules, 1959, it has no connection whatsoever with the eligibility for furlough, unlike the connection that regular parole under Rule 19(2) of the Rules, 1959 would have. However, the impugned order shows that the case of the petitioner has been considered as if the petitioner was seeking regular parole and that was the reason why it was found that as the petitioner was not eligible for furlough, he being a convict in a terrorist crime, the petitioner would also not be entitled to be released on emergency parole under Rule 19(1)(C) of the Rules, 1959. Such reasoning adopted in the present case is erroneous and therefore, the impugned order cannot be sustained in the eye of law.

4] The Writ Petition is allowed. The impugned order is hereby quashed and set aside. The case of the petitioner is remanded back to the respondent no.2 for its consideration

(3)

afresh, in accordance with law, and on its merits.

Rule is made absolute accordingly.

JUDGE

JUDGE

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