

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

CRIMINAL WRIT PETITION NO. 490 OF 2020

Sudharshan Sadashiv Vighne,
C-3697
Aged Major, Occ: Nil
(Presently in Central Prison Amravati)

-- Petitioner

vs.

State of Maharashtra
Through S.P. Central Jail, Amravati
and another

-- Respondents

Shri Raju Kadu, Advocate for petitioner.
Shri A.R. Chutke, APP for Respondents/State

**CORAM : PRASANNA B. VARALE &
N.B. SURYAWANSHI JJ.**

DATE : APRIL 7, 2021

P. C. :

1. Heard learned counsel for the petitioner.
2. The petitioner is challenging order of the Competent Authority dated 18th February 2020 whereby the application seeking parole leave was rejected. The petitioner is lodged in Central Prison, Amravati as convict No.C-3697. The learned Additional Public Prosecutor fairly admitted

that one of the reasons assigned in the rejection order is in respect of offence registered against the petitioner namely Crime No. 440/2016, may not be a ground for the rejection, in view of the fact that the petitioner was subsequently acquitted of the offences charged against him in Crime No.440/2016. At the same time, the learned Additional Public Prosecutor placed reliance on the Government Notification dated 16th April, 2018 and more particularly Rule 4 (12) as well as Rule 19 (2).

3. In view of the Government Notification dated 16th April, 2018 the petitioner would not be entitled for parole leave considering an admitted fact that the petitioner is suffering a conviction for the offence punishable under Section 376 of the Indian Penal Code. At this stage, the learned counsel for the petitioner, by inviting our attention to an order of the Division Bench dated 11th October, 2018 in Criminal Writ Petition No.234/2018, submitted that the petitioner be permitted to undertake a recourse of filing a fresh application to the Competent Authority for grant of parole leave and the Competent Authority be directed to decide the application within a stipulated period.

4. Considering the submission of learned counsel for the petitioner, in our opinion, at this stage and in this

petition it may not be necessary for this Court to make any critical comment or observation on the notification dated 16th April 2018 qua the grounds raised by the petitioner in the present petition, as the petitioner has shown his willingness to go before Competent Authority by submitting fresh application. We deem it appropriate to dispose of petition with the liberty to the petitioner to file or submit the fresh application before Competent Authority within two weeks from today. In case, such an application is filed before Competent Authority within two weeks from today the Competent Authority i.e. respondent No.2 shall decide the application within two weeks from the date of receipt of the application, needless to state, on merits of the application and also by considering the rules prevalent.

5. The petition is accordingly disposed of.

[N.B. SURYAWANSHI J.]

[PRASANNA B. VARALE J.]