

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

CRIMINAL WRIT PETITION NO.536 OF 2021

Anup Datta Khandare,
C/8996, detained in
Nagpur Central Prison, Nagpur. **Petitioner.**

:: VERSUS ::

1. State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-32.

2. Superintendent of Jail,
Nagpur Central Prison,
Nagpur. **Respondents.**

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Mrs.S.S.Dhote, Counsel for the Petitioner (Appointed).
Mrs.N.R.Tripathi, Addl.Public Prosecutor for the Respondents/State.
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CORAM : **V.M.DESHPANDE, &
AMIT B.BORKAR, JJ.**

DATE : **AUGUST 27, 2021**

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

1. Heard learned counsel Mrs.S.S.Dhote appointed for the petitioner and learned Additional Public Prosecutor Mrs.N.R.Tripathi for respondents/State.

2. By this writ petition under Articles 226 and 227 of the Constitution of India, the petitioner is challenging order dated

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29.5.2021, impugned in this petition, passed by respondent No.2 whereby application of the petitioner for grant of emergency parole leave of 45 days has been rejected.

3. The petitioner is convicted for offences punishable under Sections 302 and 498-A of the Indian Penal Code and is undergoing imprisonment for life.

4. In the year 2015, the petitioner was released on parole leave for a period of 30 days. But, he did not surrender himself within the time and, therefore, he was required to be arrested.

5. On 24.5.2021, the petitioner applied for grant of emergency parole leave for 45 days. Respondent No.2 by order dated 29.5.2021 rejected the application of the petitioner for grant of emergency parole leave on a ground of delay in surrendering himself. The petitioner, therefore, is challenging the said order dated 29.5.2021 by way of present writ petition.

6. On 3.8.2021, this Court issued Notices. Respondent No.2 filed its reply stating therein that the petitioner has not surrendered himself within the time and, therefore, he was required to be arrested. As such, the order of rejection of the emergency parole leave is justified.

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7. The issue involved in this matter is no longer *res integra* in view of judgment in Milind Ashok Patil and ors vs. State of Maharashtra, in Criminal Writ Petition-ASDB-LD-VC No.65/2020. In the said decision, this Court has taken a view that benefit of emergency parole leave is available only to those prisoners who have surrendered themselves in time.

8. In view the decision of this Court in the case cited (*supra*), there is no illegality in rejecting the application of the petitioner for grant of emergency parole leave.

9. In this view of the matter, since there is no illegality in the petition, the criminal writ petition is **dismissed** and disposed of accordingly.

10. Learned counsel Mrs.S.S.Dhote, appointed by the Court to represent the petitioner, is entitled for her professional fees and it is quantified at Rs.1500/-.

JUDGE

JUDGE