

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

**CRIMINAL WRIT PETITION NO.588 OF 2021**

Abu Rehbar Hasan Khan,  
Aged : 40 years, Occp. : Convicted  
Offender (Prisoner no. C-5003),  
R/o. Central Prison, Amravati.

**....PETITIONER**  
(In Central Jail, Amravati.)

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1. State of Maharashtra,  
through its Secretary, Home Department,  
Mantralaya, Mumbai – 32.
2. The Superintendent,  
Central Prison, Amravati,  
District – Amravati.

**.... RESPONDENTS.**

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Shri R. K. Maheshwari, Advocate (Appointed) for the Petitioner.  
Shri T. A. Mirza, A.P. P. for the Respondents/State.

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**CORAM : V. M. DESHPANDE AND  
AMIT B. BORKAR, JJ.**

**DATE : 17.08.2021.**

**ORAL JUDGMENT : [PER: AMIT B. BORKAR, J.]**

1. Heard.
2. Rule. Rule is made returnable forthwith.
3. The petitioner has filed the present petition challenging rejection of the application for emergency parole. The petitioner is

convict for the offences punishable under Section 302 of the Indian Penal Code and under Section 25(1-B) (a) of the Arms Act.

4. On 24.05.2021, the petitioner has applied for grant of emergency parole under Rule 19(1)(C)(ii) of the Prisons (Bombay Furlough and Parole) Rules, 1959. The respondent No.2 rejected the said application by impugned order dated 30.05.2021. The petitioner has therefore, challenged the said order dated 30.05.2021 by way of the present petition.

5. On careful perusal of the impugned order, it appears that the respondent No.2 has rejected the emergency parole application on the ground that the petitioner had not surrendered in time when he was released on parole earlier. In addition to the said reason, the impugned order reflects that the petitioner has been convicted under Special Act namely Section 25(1-B)(a) of the Arms Act, 1959.

6. This Court in the case of Writ Petition-ASDB-LD-VC No. 65/2020 (Milind Ashok Patil Vs. State of Maharashtra decided on 16.07.2020) has taken a view that a person is entitled for release on emergency parole, even if, he has not been released twice earlier only if a prisoner had returned to the jail in time. It has been clarified in the said judgment by this Court that a person who has

not surrendered himself in time, is not entitled for being released on emergency parole.

7. In addition to the above reason, the Full Bench of this Court in the case of *Pintu S/o. Uttam Sonale Vs. State of Maharashtra* reported in *2021 ALL MR (Cri) 822 (F.B.)* has taken a view that the prisoner who has been convicted for the special offences is not entitled for released on emergency parole.

8. In view of the judgment of Full Bench of this Court in the case of *Pintu Uttam Sonale (supra)*, we are satisfied that the order of rejection of emergency parole leave of the petitioner is perfectly legal. There is no merits in the petition. The petition is therefore dismissed.

9. Rule is discharged. Pending application(s), if any, stand(s) disposed of.

Shri R. K. Maheshwari, Advocate appointed for the petitioner is entitled to fees quantified at Rs.1500/-.

**JUDGE**

**JUDGE**