

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 CRIMINAL WRIT PETITION NO. 507 OF 2022

SAKHARAM S/O SITARAM BHISE (CONVICT NO. 8468)
VERSUS
THE DEPUTY SUPERINTENDENT (PRISON), AURANGABAD

.....
Advocate for Petitioner : Mr. Ganesh Ramrao Jadhav (appointed)
APP for Respondent-State : Mr. S. D. Ghayal
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CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 08th APRIL, 2022

PER COURT:-

1. Leave to correct the prayer clause.
2. We have received a communication in writing from the convict through the Aurangabad Central Prison, Aurangabad. The same is treated as criminal writ petition.
3. Heard learned counsel representing the petitioner.
4. Issue notice to the respondents, returnable forthwith. The learned APP waives notice for the respondents.

5. The petitioner Sakharam s/o Sitaram Bhise (C-8468) is a life convict in connection with the crime/case and the period of imprisonment undergone by him so far is more than 13 years.

6. In terms of the amended Rule 19(1)(C)(ii) of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959, the Superintendent of Central Prison, Aurangabad has released the petitioner/convict on Covid Emergency parole. However, while granting him Covid Emergency parole, the Superintendent of Central Prison, Aurangabad has directed the petitioner/convict to furnish two sureties for an amount of Rs.20,000/- (Rupees Twenty thousand only) each, in addition to the execution of personal bond.

7. The convict has communicated that he is a poor person and due to financially weak position he is unable to furnish two sureties, as directed. The petitioner/convict is ready to furnish one surety for the like amount and thus prayed that the condition of furnishing two sureties as directed by the respondent/ Superintendent of Jail may be modified to that extent.

8. This Court (Coram : Ravindra V. Ghuge and B. U. Debadwar, JJ.) by order dated 16.03.2021 in Criminal Writ Petition No.257 of 2021 and the Division Bench headed by (Coram : V. K. Jadhav and M. G. Sewlikar, JJ.) by order 09.03.2021 in Criminal Writ Petition No.340 of 2021, has taken a similar view and modified the condition to the extent of one surety instead of two sureties.

9. The learned APP appearing for the respondent State submits that though the rule provides no specific requirement or guidelines or directions for furnishing two sureties by the convict while releasing him on Covid Emergency parole, however, the same is left at the discretion of the authority concerned. The learned APP has fairly accepted that it was a requirement of furnishing two sureties in the notification issued by the Home Department dated 26.08.2016, however, in the notification dated 16.04.2018 issued by the Home Department, Mumbai, the said word "two sureties" have been omitted and instead of that, in Rule 24A, it is mentioned that "the parole may be granted to a prisoner subject to his executing a surety bond in Form A, a Personal Bond in Form B".

10. It thus appears that the Superintendent of Jail, Aurangabad, in terms of the old notification dated 26.08.2016, has directed the convict to furnish two sureties while granting him Covid Emergency parole. The petitioner/convict is the poverty stricken person. He is in jail for a long period. It is thus difficult either for him or his relatives to make the arrangement of two sureties. On earlier occasion, this court in the aforesaid two cases has relaxed the said condition and directed the petitioner/convict to furnish one surety for an amount of Rs.20,000/- (Rupees Twenty Thousand Only) which should be an independent surety, not relative to the prisoner.

11. In view of the above, we are also inclined to take a similar view and decide this writ petition in the similar manner. Hence, the following order :

O R D E R

- (I) Writ Petition is hereby allowed.
- (II) The impugned order is modified and the petitioner / convict is directed to execute a Personal Bond of Rs.10,000/- and one surety of Rs.20,000/- which should be an independent surety, not relative to the prisoner.

(III) Rest of the conditions in the impugned order remained as it is.

(IV) Writ Petition is accordingly disposed off.

12. We quantify the fees for the appointed counsel at Rs.2,000/- (Rupees Two Thousand only) to be paid by the High Court Legal Services, Sub-committee, Aurangabad.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

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