

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1405 OF 2021

Narayan Shivram Kawale
Age : 65 years, occ : nil
R/o At present Paithan Open
Prison, District Aurangabad

Petitioner

VERSUS

1. The State of Maharashtra
2. The Superintendent of Open
Prison, Paithan,
District Aurangabad.

Respondents

.....

Ms. Sharda P. Chate, Advocate for the petitioner.
Mr. S.D. Ghayal, A.P.P. for respondents.

.....

CORAM : V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.

DATE : 17-01-2022.

ORDER :

1. Heard.
2. The petitioner is a life convict in connection with the crime / case and the details of his conviction and the period undergone by him till this date so far is mentioned in the following tabular form :

Sr. No.	Name	Convict No.	Period
1.	Narayan Shivram Kawale	C-628	11 Years

3. 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 said authority has directed the petitioner / convict to furnish one surety for an amount of Rs.10,000/- (Rupees Ten thousand only) in addition to the execution of the personal bond and cash surety of Rs.10,000/- each.

4. Learned counsel for the petitioner submits that the petitioner is a poor person and due to financially weak position he is unable to furnish cash surety of Rs.10,000/-, as directed. The petitioner / convict is ready to furnish one surety for the like amount and thus prayed that the condition of furnishing cash surety of Rs.10,000/- as directed by the Superintendent of Jail may be relaxed.

5. 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 (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.

6. The learned APP submits that though the rule provides no specific requirement or guidelines or directions of 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 appearing for respondent-State has fairly accepted that it was a requirement of furnishing sureties as well as cash surety 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 words "two sureties" are 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".

7. 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 one surety of Rs.10,000/- as well as cash surety of Rs.10,000/- 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 above. Furthermore, in case of the petitioner / convict there are only aged parents in the house. 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.10,000/- (Rupees Twenty Thousand Only) which should be an independent surety, not relative to the prisoner.

8. 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:-

ORDER

- (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.10,000/- 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.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)