

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1449 OF 2021

Mohammad Instaq @ Bablu Mohammad
Yaqub Patel

Petitioner

Versus

The State of Maharashtra & another

Respondents

None present for the petitioner
Mr. S. S. Dande, APP for Respondents.

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

DATE : 03rd March, 2022.

PC :

1 None present for the petitioner. The matter is kept today for taking instructions as regards withdrawal of the petition.

2 In the case of **Pintu Uttam Sonale Vs. State of Maharashtra**, 2021 ALL MR (Cri) 822, the Full Bench, constituted under the orders of the Hon'ble the Chief Justice, has framed following two questions for determination:

“(i) Which of the interpretation of Rule 19(1) sub-rule (C) as brought about by the Maharashtra Prisons (Mumbai Furlough and Parole

(Amendment) Rules, 2020, either as made in decision of the Division Bench in *Vijendra Malaram Ranwa vs. State of Maharashtra & Anr* or the decision of the Division Bench in *Sardar s/o Shawali Khan vs. The State of Maharashtra & Anr*, is the correct interpretation”

(ii) Whether the provisions of ‘emergency parole’ as brought about by the amendment to Rule 19(1) by insertion of sub-rule (c) by the Maharashtra Prisons (Mumbai) Furlough and Parole (Amendment) Rules, 2020, would cover prisoners convicted under the provisions of the Protection of Children Against Sexual Offences Act, 2012 (for short ‘the POCSO Act’)?”

3 So far as question no. (ii) is concerned, same is relevant for consideration of present petition. The Full Bench, in the case of **Pintu** (*supra*), answered question no. (ii) as: “the provisions of emergency parole as brought about by amendment to Rule 19(1) by incorporation of sub-rule (C) read with its proviso would cover prisoners convicted under the provisions of Protection of Children Against Sexual Offences Act, 2012.”

4 In the instant case, the petitioner has challenged the order of rejection of his emergency parole by the Respondent-authorities. However, it appears that the petitioner is convicted in

terms of judgment and order of conviction dated 31.07.2015, passed by the Additional Sessions Judge, Biloli, in Sessions Case No. 40 of 2014. The learned Additional Sessions Judge, Biloli, has convicted the petitioner for the offence under Section 5, punishable under Section 6 of the Protection of Children Against Sexual Offences Act, 2012 and sentenced him to suffer rigorous imprisonment for Ten years and to pay fine of Rs. 10,000/-.

5 In terms of the aforesaid question answered by the Full Bench in the aforesaid Reference, there is no substance in this Criminal Writ Petition.

6 Hence, we pass the following order:

(i) Criminal Writ Petition is hereby dismissed.

(SANDIPKUMAR C. MORE)
JUDGE

(V.K.JADHAV)
JUDGE

adb