

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.479 OF 2022

Rukmini Amol Kalsait (Married
sister of Convict Maruti
@ Pintu Dattatray Harihar)

... Petitioner

Vs.

The State of Maharashtra And Anr.

... Respondents

Mrs. Harjeet Kaur, Bhagwant Singh – Advocate for the Petitioner
Ms. M. H. Mhatre - APP for the Respondent-State

**CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.**

DATE : 30th MARCH, 2022

P.C. :

1. A short issue involved in this Petition is about grant of parole leave to the Petitioner. Considering that, by consent, we have heard both the parties finally. Rule.

2. The Petitioner is undergoing sentence of life imprisonment inflicted by Court of Additional Sessions Judge, Pandharpur in Sessions Case No.2 of 2001 under Sections 396, 364, 414, 201 read with 34 of the Indian Penal Code. He is requesting for grant of parole leave on the ground of COVID-19 pandemic. However, it was rejected by

Superintendent Central Prison, Kalamba, District Kolhapur vide Order dated 29th December, 2021. He has given following three reasons:-

- A) Proper care has been taken in keeping the Corona under control inside the Jail premises. The care taken is re-produced at page No.2 of that order.
- B) The convicts for the offence punishable under Sections 392 to 402 are not entitled to be released on parole leave on account of COVID-19.
- C) The convicts who are likely to flee away if released on parole are not entitled for parole leave. The order also says that on three occasions the Petitioner was late in returning to Jail when he was released on parole leave.

3. On this backdrop, we have heard Advocate Mrs. Harjeet Kaur for the Petitioner and Ms. M. H. Mhatre, learned APP for the Respondent-State.

4. There cannot be dispute that now the situation of COVID-19 is not alarming, as it was in the year 2020. Even the impugned order mentions what precaution has been taken inside the Jail. In fact the Petitioner has been vaccinated twice on account of COVID-19. We are not inclined to interfere in the order. Our attention is invited to the Order passed by the Division Bench in Criminal Writ Petition No.2534 of 2021 on 17th September, 2021 merely not returning in time was not

expected as a ground to deny parole leave. There cannot be any dispute about this proposition of law. However, we have to consider the facts. In that case the Petitioner was late in returning by 266 days in the year 2012 and 169 days in May, 2016. Whereas in the case before us the Petitioner was late on three occasions. It was for six days in the year 2010, 266 days in the year 2012 and 166 days in the year 2016. It shows the conduct of the Petitioner in not respecting the law. So we are not inclined to interfere in the Order passed by the Jail Superintendent.

5. The Petitioner is at liberty to apply afresh by giving a ground as permissible by law. If such application is filed, the concerned Jail authorities to decide the application within prescribed time limit.

6. Accordingly Writ Petition No.479 of 2022 is dismissed. Rule is discharged.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)