

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 481 OF 2022**

Rahul S/o. Mohan Kakde

....Petitioner

Versus

The State of Maharashtra

....Respondent

Mr. Rupesh Jaiswal, advocate for the petitioner.

Mr. K. V. Saste, APP for the respondent-State.

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

DATE : 29th MARCH, 2022.

P.C. :

1. Heard Mr. Jaiswal, learned counsel for the petitioner.
2. The petitioner – convict No.12701, who is presently lodged at Central Jail, Nasik Road, Nasik and sentenced to 10 years imprisonment for offence punishable under Section 304 (I) of the Indian Penal Code, 1860, awarded by learned Sessions Judge, Jalna in Sessions Case No.150 of 2015, is before this Court challenging the order dated 22nd October, 2021, passed by the authority of respondent No.1-State viz. Superintendent, Nasik Road Central Prison, Nasik, whereby the application for grant of emergency parole is rejected.

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3. Mr. Jaiswal, learned counsel for the petitioner, by inviting our attention to the order challenged in the petition and placed on record at Exhibit-'A', page 13 of the petition, submitted that the order is nothing but an outcome of non-application of mind. Mr. Jaiswal submitted that in the said order, firstly the authority refers to the arrangement made in the prison so as to deal with Covid-19 pandemic and secondly, assigns a reason that since the petitioner has failed to pay the fine amount of Rs.1,00,000/-, in case the petitioner is released from the prison, he may abscond. Mr. Jaiswal submitted that this observation and opinion being formed by the authority is contrary to the past record of the petitioner. Mr. Jaiswal, learned counsel, submitted that prior to submitting the application to the authority, the petitioner was not released from the prison even on single occasion. Thus, the apprehension expressed by the authority is wholly unjustified. Mr. Jaiswal, in support of his submissions, placed heavy reliance on the order of this Court dated 13th May, 2021 in writ petition No.1954 of 2021 and order dated 30th June, 2020 in writ petition No.571 of 2020.

4. Considering the above referred facts, we find merit in the submission of Mr. Jaiswal, learned counsel for the petitioner. Resultantly, we pass the following order:

ORDER

(1) The petition is partly allowed.

(2) The order impugned in the petition dated 22nd October, 2021, passed by the Superintendent, Nasik Road Central Prison, Nasik, is quashed and set-aside.

(3) The respondent-authority is directed to consider the application of the petitioner afresh and pass appropriate orders as early as possible and not later than two weeks from the date of receipt of the order of this Court.

The petition stands disposed of.

5. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)