

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.735 OF 2022

Mahesh Prakash Pawar

...Petitioner

Versus

The State of Maharashtra & Others.

..Respondents

Mr. Kishor Dattaram Walanju for the Petitioner
Mr. J. P. Yagnik APP for Respondent No.1

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.
Date : March 21, 2022.

P. C. :

1 By way of present Petition, the Petitioner, who is presently suffering the punishment awarded by the learned Additional Sessions Judge, Dhule, raises challenge to the order passed by Respondent No.2 dated 29th June 2021 whereby the Application of parole leave is rejected.

2 The learned Counsel appointed for the Petitioner submitted before this Court that the Petitioner had approached the prison Authorities for seeking parole leave in view of the

Government Notification dated 8th May 2020. By assigning a reason that there were four cases registered against the Petitioner, the Application for emergency parole leave was rejected.

3 The learned APP, per-contra, submitted before this Court that the reference made to the four cases registered against the Petitioner is one of the reasons and not the sole reason to reject the Application of the Petitioner. The learned APP, by inviting our attention to the order, submitted that the Government Notification dated 8th May 2020 was issued on the back-drop of major out-ray of COVID-19 pandemic and to avoid the spread of COVID-19 pandemic, the Notification was issued. The learned APP submitted before this Court that when the Application was submitted to the Authority, at that time, the Prison Authorities made necessary arrangements for providing immediate medical treatment to the patients. The arrangement for separate wards was also made. The entry in the prison was controlled by installation of thermal scanners, then on periodical basis, necessary tests such as RTPCR, Antigen, Rapid Tests are conducted in the prison. The State Government, through the prison administration, is providing the cautionary articles such as masks, sanitizer etc. In addition to these arrangements, the Nasik Municipal Corporation is also extending its cooperation by providing

the facility of vaccination to the prisoners. As such, the Prison Authorities on all these aspects as well as on an additional aspect viz. registration of four cases against the Petitioner, rejected the Application.

4 The learned APP also invited our attention to the Government Notification dated 16th April 2018 wherein a reference is made to Rule 4(2). It seems that the Petitioner had initially approached the Aurangabad Bench of this Court by filing Criminal Writ Petition No.1212 of 2020 and considering the fact that the Petitioner is lodged in Nasik Prison, the said Petition sought to be withdrawn with liberty to approach the principal seat and accordingly the present Petition is filed.

5 Considering all these aspects, we are unable to find any fault in the order dated 29th June 2021 impugned in the present Petition. The Petition, thus, being merit-less, deserves to be dismissed. Same is accordingly dismissed.

6 We further make it clear that dismissal of the present Petition may not be treated as a rider for the Petitioner for filing a fresh Application as per the Rules if the Petitioner is entitled to file

successive Applications and in case such Application is filed by the Petitioner, the Authority to consider that Application on its own merits.

7 With these observations, the Petition is disposed of.

8 The fees shall be paid to the Counsel appointed for the Petitioner, as per the Rules.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]