

will not return back and likely to abscond, if released on emergency parole.

4 Our attention is brought to the Notification dated 8 May 2020. it is true that the Government has decided to grant parole leave of 45 days in view of the declaration of epidemic under the Epidemic Diseases Act, 1987. Those directions does not apply to certain categories of convicted persons mentioned therein. Admittedly, the Petitioner does not fall in that category. However, Corona is not as serious as it was earlier and now Jail Authorities in Maharashtra have started and done vaccination and other measures inside jail. So on account of declaration of epidemic, we are not inclined to allow that prayer.

5 Our attention is also brought to an Order passed by Aurangabad Bench of this Court in Criminal Writ Petition No.73 of 2021 (Sankar S/o. Vitthal Khare Vs. State of Maharashtra), an emergency parole was allowed as per the Order dated 5 February 2021. In that case also such Petitioner was convicted under Sections 392 and 395 of Indian Penal Code. We are inclined to remand matter back to Jail Authorities with direction to consider the Application of the Petitioner for furlough leave. At the same time, we are also observing consideration of the conviction of the Petitioner under Sections 302 and 397 of Indian Penal Code, may not be considered as a factor to refuse furlough leave. In view of that, the following Order is passed :-

: O R D E R :

- (i) Writ Petition No.836 of 2022 is partly allowed.

- (ii) Superintendent, Central Jail, Kalamba, Kolhapur to forward the Application of the Petitioner and Deputy Inspector General, Prisons, is directed to consider the Application of the Petitioner for furlough leave request.
- (iii) His request for furlough leave to be decided as per the Furlough Leave Rules, preferably within 45 days from the receipt of this Order.
- (iv) Parties to act on authenticated copy of the Order.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)

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