

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.2348 OF 2021

Mohammed Ali Alah ShaikhPetitioner

Versus

The State of MaharashtraRespondent

WITH

WRIT PETITION NO.2523 OF 2021

Muzammil Ataur Rehman ShaikhPetitioner

Versus

The State of MaharashtraRespondent

Ms. Kritika Agarwal, advocate for the petitioner.

Mrs. Aruna Pai, PP for the State.

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

DATE : 8th APRIL, 2022.

P.C. :

1. As both these petitions raise an identical grievance, they are taken for disposal together.

2. The petitioner in writ petition No.2348 of 2021 is presently lodged in Thane Central Prison. The petitioner submitted an application before the competent authorities on 5th October, 2020, for grant of emergency parole leave. Whereas the petitioner in writ petition No.2523 of 2021 who is presently lodged at Nashik Road Central Prison submitted his application for similar relief on 11th January, 2019. The competent prison authorities though allowed the applications vide orders dated

6th February, 2021 and 22nd February, 2019 respectively, a condition was imposed for release of these petitioners i.e. bearing expenses of the escort squad.

3. Ms. Agarwal learned counsel for the petitioners submitted the petitioners are behind bars for a considerable length of period. They belong to a lower middle class family and the family members of the petitioners are not financially sound enough to bear the expenses of escort charges and the condition imposed upon the petitioners is an onerous condition and failure to comply with the same would result in depriving the petitioner the benefit granted to them.

4. Mrs. Pai, learned PP, appearing for the State submitted that similar grievance was raised before this Court in certain petitions and orders were also passed. The State Government, considering this issue sympathetically thought it fit to provide some solace to the prisoners and by way of amendment to Rule 19 of the Maharashtra Prisons (Mumbai Furlough Parole) Rules 1959 vide notification dated 10th February, 2022, the State Government has provided a redressal forum in the nature of consideration by superior authorities viz. D.I.G.(Prisons) and the petitioners or the convicts similarly circumstanced with the petitioner are entitled to approach the D.I.G.(Prisons) raising their grievance in respect of condition of escort charges. Mrs. Pai also submitted to this Court that

even the grievance insofar as the period for release or the days prescribed for release is also taken care of and the very authority viz.D.I.G.(Prisons) can consider this aspect if such grievance is raised before the authority.

5. Ms. Agarwal, learned counsel for the petitioners submitted that in view of the submission of Mrs.Pai, learned PP, the grievance raised in the petitions, no more survived. Ms. Agarwal submitted that as the petitioners are lodged in the prison, filing of fresh application to D.I.G. (Prisons) would only be an additional burden on the petitioners and it will also take some time.

6. Considering the above submissions of learned counsel for the petitioners, learned PP is requested to forward the copies of the petitions received by the office of the Public Prosecutor to the competent authority viz. D.I.G.(Prisons) so as to take a decision on the grievance of the petitioner. The copies of the petitions be forwarded to the Office of the D.I.G.(Prisons) through Superintendent (Prisons), Thane Central Jail and the Superintendent (Prisons), Nashik Road Central Prison respectively within one week from the date of receipt of authenticated copy of this order. On receipt of copies of the petitions by the D.I.G.(Prisons), the petitions be treated as applications and the same be decided as expeditiously as possible and not later than three weeks from the date of

receipt of these petitions. With these directions the petitions are disposed of.

7. 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.)