

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2333 OF 2021

Kailas Ramchandra Shejul.

...Petitioner.

Versus

The State of Maharashtra.

..Respondent.

Ms. Manisha Devkar for the Petitioner (appointed advocate).

Ms. M. H. Mhatre, APP for Respondent – State.

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

Date : April 4, 2022.

P. C. :

1. This is a letter petition filed from prison. Ms. Manisha Devkar, is the panel appointed advocate representing the Petitioner in this letter petition.
2. The Petitioner is life convict undergoing his sentence in Nashik Road Central Prison, Nashik. In view of the Government Resolution (GR) dated 8th May 2020, the Petitioner submitted an application for grant of emergency parole leave. By the order dated 28th September 2020, which is impugned in this petition, the Superintendent, Nashik Road Central Prison, Nashik has rejected the said application.
3. Learned counsel Ms. Devkar submitted that the impugned order is an outcome of non-application of mind by the prison authority and therefore deserves to be quashed and set aside.
4. Perusal of the impugned order reveals that application of

patilsr

SACHIN
RAMCHANDRA
PATIL

Digitally signed
by SACHIN
RAMCHANDRA
PATIL
Date:
2022.04.07
20:14:08
+0530

the Petitioner for grant of emergency parole leave is rejected assigning the reason that benefit of GR dated 8th May 2020 can be granted only to such convicts/prisoners who had availed the parole leave or furlough leave earlier on two occasions and on those two occasions they have had surrendered to the prison authorities on due dates; and since the Petitioner had not availed the benefit of such leave even on a single occasion prior to the instant application for grant of emergency parole leave, the Petitioner is not entitled for the benefit under GR dated 8th May 2020. The reason assigned by the prison authority is completely unsustainable. The authority has read the said GR dated 8th May 2020 mechanically, without considering the object behind said GR. The GR dated 8th May 2020 came to be issued considering the situation arising due to the outbreak of covid-19 pandemic and in view of the shortfalls of measures available in the prisons to deal with the pandemic situation, opportunity was given to the prisoners to avail emergency parole leave so as to avoid crowding in the prisons. The GR dated 8th May 2020 was certainly not meant to create a blanket rider for the prisoners who have not availed this benefit even for once. Thus, we are unable to find any logic or rational in the rejection order. The impugned order is completely unsustainable. Therefore, writ petition is allowed by quashing and setting aside the impugned order.

5. Considering the fact that the rejection order is passed in

the year 2020 and the petition has come up before this Court for consideration today, instead of remanding the matter back to the authority, we permit the Petitioner to file a fresh application for grant of parole / furlough leave within two weeks from today.

6. The prison authorities to intimate the liberty granted to the Petitioner by this Court in above paragraph no.5, by written communication. The counter-signature of the Petitioner be obtained on the written intimation given to him.

7. In case the Petitioner files a fresh application as provided above, the prison authorities to consider the same on its own merits and pass appropriate orders as expeditiously as possible and in any case the decision thereon shall be rendered by the authority within the period of four weeks from the date of receipt of application from the Petitioner.

8. The fees of the appointed advocate – Ms. Manisha Devkar be quantified and paid by the office as per the extant Rules.

9. The writ petition stands disposed of with the aforesaid directions.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]