

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

WRIT PETITION NO. 4126 OF 2021

Mr.Chandar Armogam Nayakar
(alias Chander Armogam Nayakar)

...Petitioner

vs.

The State of Maharashtra & Anr.

...Respondents

Mr.Nitin Parkhe for Petitioner.

Ms.Sangeeta D. Shinde, Addl.PP for State.

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 6 JANUARY 2022

P.C. :

. Heard learned Counsel appearing for the Petitioner.

2. Being aggrieved by the non-action of the authority, the Petitioner approached this court. The Petitioner, i.e. convict no.C-7550, is lodged in Nashik Road Central Prison suffering the life imprisonment in pursuant to the judgment and order dated 20 January 2009 by the learned Sessions Judge in Sessions Case No.618/2008. The Petitioner submitted an application for grant of emergency parole leave and by order dated 19 September 2020, the application was rejected. The Petitioner had challenged the said order in the present petition and when the petition was listed before this court on 9 December 2021, it was submitted before this court that the Petitioner had again applied for grant of emergency parole leave on 11 May 2021. It was submitted that the application is pending before the authority for decision. Learned APP, on instructions, submitted

before that the application of the Petitioner would be decided and the same would be communicated to the Petitioner within two weeks from 9 December 2021.

3. Learned Counsel for the Petitioner submitted that he is not informed as to whether the application of the Petitioner is decided or not. Learned APP submitted report/communication dated 4 January 2022 for our perusal. The copy of the same is placed on record, marked "X" for identification. By the said communication, learned APP has informed that the application of the Petitioner is decided and the same is rejected. Copy of the order is also annexed to the report.

4. Perusal of the copy of the order show that the order is communicated to the Petitioner on the very day and his signature is obtained on the copy of the order. In view of these facts, it cannot be stated that the Petitioner is not aware of the rejection order. Perusal of the order further show that the prison authorities have made necessary arrangements to deal with the Covid-19 cases. Arrangements are made in the present prison for the quarantine centres. It is also submitted that in Nashik Prison, 100% vaccination of the convicts lodged in the prison is undertaken. While rejecting the application of the Petitioner, the prison authorities have taken recourse to the circular/notification dated 16 April 2018 and particularly, clause 4(10) of the notification. Reference is also made to the Prison Rules of 1979 and particularly, Rule 4(4), 4(20) of Chapter 37. It is useful for our purposes to refer to very important factor and that is the belated reporting of the Petitioner. The rejection order states that the Petitioner who had availed the furlough leave and was released on 30 December 2010, instead of reporting in time to prison authorities, the Petitioner misused the liberty

and by effecting his arrest, the Petitioner was brought back to the prison after 1124 days. On these factual aspects, the prison authorities stated in the rejection order that it is the apprehension of the prison authorities in case the Petitioner is again released on emergency parole leave, he may misuse that liberty. On perusal of the rejection order, we are of the opinion that the prison authorities passed the rejection order on well reasoned grounds.

5. At this stage, learned Counsel for the Petitioner, on instructions, submitted that the mother of the Petitioner, who is old age, is ailing as such the Petitioner be permitted to approach the authority for grant of the parole leave on ground of ailment of the mother of the Petitioner.

6. In view of the above referred facts, we dispose of the petition with liberty to the Petitioner to approach the Respondent prison authorities afresh by filing necessary application on the ground of ailment of his mother within two weeks from today. On receipt of the application within a period of two weeks from today, the prison authorities may pass appropriate orders as per the provisions of law, as expeditiously as possible and not later than two weeks from the date of receipt of the application.

7. Authenticated copy of this order be supplied to the Counsel appearing for the respective parties. The order of the court be communicated to the prison authorities.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)