

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4546 OF 2021

Shoukat Vajir Patel. ...Petitioner.
Versus
The State of Maharashtra. ..Respondent.

Mr. Rupesh Jaiswal for the Petitioner.
Ms. S. D. Shinde, APP for the Respondent-State.

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

Date : March 24, 2022.

P. C. :

1. Heard learned counsel Mr. Jaiswal appearing on behalf of the Petitioner as well as learned APP Ms. Shinde appearing on behalf of the Respondent – State.

2. Order was passed by us on 8th March 2022, making reference to the limited grievance raised by the Petitioner in this petition in respect of rejection of emergency parole leave application. Perusal of the impugned order dated 1st August 2021 shows that application of the Petitioner has been rejected on two grounds, firstly, the sufficient measures are taken in the prison for attending the prisoners suffering from Covid-19. It is also stated in the order that on clinical examination of prisoners in the Central Prison, Kalamba, Kolhapur, not a single prisoner was found positive and all the reports were negative. The

second ground assigned for the rejection of petitioner's application is an apprehension of the authority that in case the Petitioner is released on parole leave, he may abscond and possibility of such abscondance cannot be ruled out.

3. Insofar as the first ground is concerned, learned counsel Mr. Jaiswal appearing for the Petitioner submitted that even though there are certain measures initiated and taken by the prison authorities, as per one decision of this Court, the prisoners are entitled for submitting their applications for emergency parole leave on the backdrop of Covid-19 pandemic till the provisions of Disaster Management Act are in force.

4. Mr. Jaiswal then by inviting our attention to the affidavit-in-reply filed on behalf of the Respondent-State submitted that till date the Petitioner was never released on furlough or parole leave and he is suffering life imprisonment in the prison, is an admitted fact in the reply. As such there is no justifiable reason for maintaining the apprehension of abscondance of Petitioner and by putting this mechanical rider, the application ought not to have been rejected.

5. Now considering the factual aspects, namely, the application submitted by the Petitioner was for grant of parole leave for

45 days for that specified period and now that period is over and considering other submissions in respect of the order passed by this Court as well as the submission that there are no justifiable reasons to say that there is apprehension of abscondance of Petitioner, we deem it appropriate to dispose the petition with liberty to the Petitioner to file a fresh application to the concerned prison authorities for grant of emergency parole leave, if so desired. In case such an application is filed, the competent authority shall decide the same as per Rules and without raising superficial and mechanical apprehension of abscondance.

6. With the aforesaid directions, writ petition is disposed of.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]