

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL WRIT PETITION NO. 54 OF 2022

Ajit s/o Chandrakant Rane
Aged about 45 years
R/o House No.217/218, Hall Village
Road, in front of Akash Bakery, Father
Peter Parera Road, Kurla West, Mumbai ... **PETITIONER**
Convict No.C-5014, At present Amravati
Central Prison.

---VERSUS---

1. Divisional Commissioner,
Amravati Division, Amravati
2. Superintendent of Jail,
Central Prison, Amravati,
District Amravati. ...**RESPONDENTS**

Ms S.B. Khobragade, Advocate for petitioner.
Ms N.R. Tripathi, Additional Public Prosecutor for respondent.

**CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.**

DATE : 26th APRIL, 2022.

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.
3. By this writ petition under Article 226 of the
Constitution of India the petitioner is challenging order dated

04.11.2021 passed by the respondent no.1 refusing to release the petitioner on parole for 45 days.

4. The impugned order, it appears that the application of the petitioner has been rejected on the ground that the petitioner has failed to complete the period of six months from the last date of release on furlough leave.

5. The learned counsel for the petitioner submitted that as of today, required period of six months is complete. Therefore petitioner is now eligible for release on emergency parole.

6. In view of settled position of law, the rights of the prisoner need to be considered as were available on the date of filing of the application and not on the date of consideration of the same. In view of said position, it would be in the interest of justice to relegate the petitioner to file fresh application before the respondent no.2 for disposal in accordance with law.

7. We therefore pass the following order:

(i) The writ petition is disposed of.

(ii) The petitioner shall be entitled to file fresh application for his release on parole for period of 45 days, if he otherwise eligible in accordance with Rules of 1959.

(ii) Considering the peculiar facts of the case, the respondent no.2 shall decide the application for release on parole within period of 15 days from the date of filing of the application.

Rule in above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE

Wagh