

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

CRIMINAL WRIT PETITION NO. 738 OF 2021

Sudarshan Sadashiv Vighne
Aged about 45 years
(Presently, C/3697, Central Prison,
Amravati, District Amravati

... PETITIONER

---VERSUS---

Superintendent of Jail,
Central Prison, Amravati
District Amravati.

...RESPONDENT

Shri S.D. Chande, Advocate for petitioner.
Ms N.R. Tripathi, Additional Public Prosecutor for respondent.

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

DATE : 30th MARCH, 2022 .

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.
3. By this petition under Articles 226 and 227 of the Constitution of India the petitioner is challenging the order passed by the rejection of emergency parole for 45 days. The petitioner is

convicted under offence punishable Section 376, 366, 342 and 506 of the Indian Penal Code.

4. The petitioner on 20.05.2021 applied for release on emergency parole for 45 days relying on Rule 19(1)(c) (ii) of the Prison Rules, 1959. The said application came to be rejected by impugned order on 12.06.2021 on the ground that the petitioner has surrendered late on earlier two occasions.

5. The petitioner has therefore challenged refusal to release on emergency parole by way of filing present writ petition.

6. This Court on 14.10.2021 issued notice to respondent.

The respondent in paragraph 5 stated as under:

“5. It is further respectfully submitted that, earlier in the year 2013 and 2014 the Petitioner was released on parole leave for a period of 14 days but he was surrendered late by one day thereafter again the Petitioner was released on the year 2010, 2013 and 2016 on parole leave on that occasion he surrendered late by 5 days, 49 days, and 38 days respectively. Thus, the Petitioner is having habit of surrendering late when he was released on parole leave or furlough leave. Hence taking into consideration his past service record and improved Covid-19 situation this answering respondent has rightly rejected his application by order dated 12.6.2021.”

7. We have heard Shri S.D. Chande, learned counsel for the petitioner and Ms N.R. Tripathi, learned Additional Public Prosecutor for respondent/State.

5. On careful perusal of paragraph 5 of reply above, it appears that the petitioner is in habit of surrendering late.

6. This Court in Milind Ashok Patil and Ors vs State of Maharashtra in Criminal Writ Petition-ASDBLD-VC No.65/2020 has held that prisoner is entitled for release on emergency parole under Section 19(1)(c) even if he has not surrendered two occasions earlier, only if he has surrendered himself within time on earlier occasion. In the present case, it is undisputed that petitioner has not surrendered in time on earlier three occasions. Hence, we do not find any illegality in the order rejecting emergency parole. The petition is therefore dismissed.

Rule stands discharged. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE

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