

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

**CRIMINAL WRIT PETITION NO.831/2021**

Imtiaz Usman Memon,  
Convict No.C/9825, Aged 25 years,  
Occ. Nil, Confined at Central Prison,  
Nagpur.

**.....PETITIONER**

**...V E R S U S...**

1. The State of Maharashtra through  
Police Station Malwani, Mumbai.
2. The Superintendent,  
Central Prison, Nagpur.

**...RESPONDENTS**

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Ms Shweta Wankhede, Advocate for petitioner.  
Mrs. N. Tripathi, A.P.P. for respondents.  
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**CORAM:- V. M. DESHPANDE AND G. A. SANAP, JJ.**  
**DATED :- 07.01.2022**

**ORAL JUDGMENT (PER: V. M. Deshpande, J.)**

1. **Rule.** Rule is made returnable forthwith. Heard finally  
by consent of the learned counsel for the parties.

2. By filing this petition, the petitioner is praying for  
releasing him on emergency parole. The petitioner was convicted  
by learned Additional Sessions Judge, Mumbai in Sessions Trial  
No.65/2014 on 24.10.2017 for an offence punishable under  
Sections 307 and 304 of the Indian Penal Code and he was  
directed to suffer rigorous imprisonment for ten years.

3. The petitioner was released from jail on emergency parole by this Court (Coram: Z. A. Haq & Avinash G. Gharote, JJ.), on 04.08.2020 in Writ Petition No.345/2020. It is an admitted position before this Court that after the petitioner was released on parole, the same was extended from time to time by the authority and it has come to an end on 06.11.2021.

4. In the meantime, it appears that the petitioner was arrested by Malwani Police Station in Crime No. 1203/2021 for an offence punishable under Sections 380 and 411 of the IPC. It appears that learned Metropolitan Magistrate 43<sup>rd</sup> Court, Borivali, Mumbai released the petitioner on bail on 06.09.2021. Thereafter, during the course of extended parole, the petitioner was brought in the Central Prison by cancelling his extended leave. The said is being under challenge.

5. It is the submission of learned counsel for the petitioner that since learned Metropolitan Magistrate has granted bail, the earlier parole granted ought not to have been cancelled by the authority.

6. The order passed by the learned Magistrate releasing the petitioner on bail is placed on record. The learned Metropolitan Magistrate released the petitioner on bail because the property was already seized and hence his custodial presence was not required.

7. Be that as it may. Grant or refusal of the bail has no bearing inasmuch as it is condition imposed on the petitioner while he was released on parole that during parole, he should not commit any offence. Here the petitioner has committed an offence. Therefore, in our view, no exception can be taken for the action taken by the authority.

8. At this stage, learned counsel for petitioner submitted mother of the petitioner is extremely ill and therefore, he be released on parole. It appears that for said reason, the petitioner has not filed any application before the authority.

9. In that view of the matter, the writ petition is disposed of with a liberty to the petitioner to file fresh application for parole before the appropriate authority giving detailed reasons as to why

he requires parole. If such an application is filed by the petitioner, the authority is directed to decide the said application within a period of ten days from the date of receipt of such an application.

Rule accordingly. No order as to costs.

**JUDGE**

**JUDGE**

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