



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

CRIMINAL WRIT PETITION NO. 660 OF 2024

Prakash Mahadev Ghorpade .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri Rupesh A. Jaiswal, Advocate for the Petitioner.
Mrs. Vaishali N. Jadhav Patil, A.P.P. for the Respondents/State.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 04 APRIL 2024.**

FINAL ORDER :

. The petitioner's application for regular parole has been turned down by the impugned order only by referring to Rule 19(3)(g)(ii) of the Maharashtra Prisons (Bombay Furlough and Parole Leave) (Amendment) Rules, 2022 on the ground that a period of one and half year since last return from parole or furlough leave is not over.

2. Though in a different context, a Full Bench of this Court in Kantilal Nandlal Jaiswal Versus Divisional Commissioner, Nagpur, (2019) 6 Mh.L.J. 186, has struck down a similar bar contained in a proviso, as violative of Article 14 and 21 of the Constitution of India.

3. This Court has been expressly directing that the request shall be considered ignoring the specific bar contained in similar

provision of the statutory period being not over since previous return.

4. We have been referred to a similar direction contained in the order passed in Criminal Writ Petition No.52/2024 (Shivaji Ganeshrao Jawale Vs. State of Maharashtra) dated 09.01.2024.

5. Similarly the learned A.P.P. also submits that independently all these similar clauses putting a bar for consideration of the request for leave by the prisons, are being reconsidered by the State pursuant to the observations of the Full Bench.

6. The criminal writ petition is partly allowed. Impugned order is quashed and set aside. The respondent No. 3 shall pass a fresh order, however, shall not refuse to grant the leave only on the ground that one and half year has not elapsed since his last return on parole or furlough leave.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb / April 24