

(2021) 08 BOM CK 0029

In the Bombay High Court

Case No : Criminal Writ Petition No. 870 Of 2021

Popat

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision : 10-08-2021

Acts Referred:

Citation : (2021) 08 BOM CK 0029

Hon'ble Judges : V. K. Jadhav, J;Shrikant D. Kulkarni, J

Bench : Division Bench

Advocate : S.A. Ambilwade, Preeti V. Diggikar

Final Decision : Dismissed

Judgement

Shrikant D. Kulkarni, J

1. Rule. Rule made returnable forthwith. With the consent of both the sides, heard finally at admission stage.
2. The petitioner is challenging the impugned order dated 6.4.2021 passed by respondent no.1/D.I.G. (Prisons), Aurangabad thereby rejecting his prayer to release him on emergency parole leave.
3. The petitioner is a convict and undergoing sentence of life imprisonment. In the background of COVID-19 Pandemic, the petitioner has applied for emergency parole leave in view of the Government notification dated 8th May 2020, issued by the Government of Maharashtra thereby amending the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959 by incorporating "Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2020". The jail authority was pleased to turn down the prayer of emergency parole made by the petitioner on the ground that the petitioner has surrendered late by 5437 days on his previous release; secondly, he was absconding for 14 to 15 years when he was earlier released on furlough leave and thirdly, adverse police report. By looking to the conduct of the petitioner, the jail authority apprehended the repetition of same

episode, if released on emergency parole and rejected his application by impugned order dated 6.4.2021.

4. Heard Mr S.A. Ambilwade, learned Counsel for the petitioner and Mrs Preeti V.Diggikar, learned A.P.P. for respondent/State/jail authority.

5. Perused the impugned order passed by the jail authority dated 6.4.2021. We have also perused the Government notification dated 8.5.2020 issued by the State of Maharashtra, Home Department, whereby the Government has amended the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959 (hereinafter referred as 'Rules, 1959' for brevity).

6. On perusing the impugned order, it is evident that the petitioner was earlier released on furlough leave in the year 2004. He did not return to the jail after leave period. He was absconding for 14 to 15 years. In the year 2019, the petitioner was arrested and sent back to the prison. In the above background, the jail authority was pleased to reject the prayer for emergency parole made by the petitioner. Rule 4 of the Maharashtra Prisons (Mumbai Furlough and Parole) Rules, 1959 prescribes eligibility criteria for releasing the prisoner on furlough. According to Rule 4(10) of the Rules, 1959, if the prisoners, who have at any time, escaped or attempted to escape from lawful custody or have defaulted in any way in surrendering themselves at the appropriate time after release on parole or furlough. Rule 4(20) of the Rules prescribes opinion of Police/prison authorities in respect of jumping of furlough by the prisoner. The petitioner has committed breach of Rule 4 (4) 4(10) and 4(20) of the Rules, 1959 (supra). In the year 2004, the petitioner was released on furlough leave, but he did not return to the jail on time. He was absconding for 14 years and after 14 years, he was arrested and sent back to the jail. The police report is also adverse.

7. In the background of above conduct of the petitioner and in view of breach of Rules 4(4), 4(10) and 4(20) of the Rules, 1959, the petitioner is not entitled to get emergency parole. We do not find any legal defect in the impugned order passed by the jail authority. The petition being sans merit stands dismissed. Rule discharged.