
(2021) 08 BOM CK 0016

Bombay High Court

Case No: Criminal Interim Application No.1954 Of 2021 In Criminal Writ Petition No.1979 Of 2021

Sharafat Ali Liyakat Ali
Shaikh

APPELLANT

Vs

State Of Maharashtra
And Anr

RESPONDENT

Date of Decision: Aug. 25, 2021

Acts Referred:

- Maharashtra Prisons (Mumbai) Furlough And Parole) Rules, 1959 - Rule 19(1), 19(1)(C)(ii)

Hon'ble Judges: S.S. Shinde, J; N.J. Jamadar, J

Bench: Division Bench

Advocate: Shraddha Vavhal, M S Ansari, J P Yagnik

Final Decision: Allowed

Judgement

1 This Interim Application is filed by the Applicant for the relief :-

B) The Emergency Parole Leave of 45 days granted by this Hon'ble Court vide order 19/05/2021 be extended till further period as may be deemed fit

and proper.

2 The learned counsel appearing for the Applicant submits that the Applicant was ordered to be released on emergency covid-19 parole leave by the

Division Bench of this Court (Coram : S. J. Kathawalla and Surendra P Tavade, JJ) vide order dated 19 th May 2021. It is submitted that if a convict

is released on emergency parole, on completion of 45 days period, the said period should have been automatically extended for 30 days on every

occasion. However, in case of the present Applicant, the said period is restricted to 45 days.

3 The learned APP appearing for the Respondent/State submits that pursuant to the directions as contained in the order dated 19 th May 2021 passed

by the Division Bench of this Court, the concerned Respondent/Authority released the Applicant on parole for 45 days as liberty was given to the

competent authority by the said order to specify the period. 4 Pursuant to the notification dated 08 th May 2020 issued by the Department of Home,

Government of Maharashtra, in Sub-Rule (1) of Rule 19 of the Maharashtra Prisons (Mumbai) Furlough and Parole) Rules, 1959, after clause (B), the

following clause (C) is added, which reads thus :-

(C) On declaration of epidemic under the Epidemic Diseases Act, 1897, by State Government :

(i) For convicted Prisoners whose maximum punishment is 7 years or less, on their application shall be favorably considered for release on emergency

parole by the Superintendent of Prison for a period of 45 days or till such time that the State Government withdraws the Notification issued under the

Epidemics Diseases Act, 1897, whichever is earlier. The initial period of 45 days shall stand extended periodically in blocks of 30 days each, till such

time that the said Notification is in force (in the event the said Notification is not issued within the first 45 days). The convicted prisoners shall report

to the concerned police station within whose jurisdiction they are residing, once in every 30 days.

(ii) For convicted prisoners whose maximum sentence is above 7 years shall on their application be appropriately considered for release on emergency

parole by Superintendent of Prison, if the convict has returned to prison on time on last 2 releases (whether on parole or furlough), for the period of 45

days or till such time that the State Government withdraws the Notification issued under the Epidemics Diseases Act, 1897, whichever is earlier. The

initial period of 45 days shall stand extended periodically in blocks of 30 days each, till such time that the said Notification is in force (in the event the

said Notification is not issued within the first 45 days). The convicted prisoners shall report to the concerned police station within whose jurisdiction

they are residing, once in every 30 days :

Provided that the aforesaid directions shall not apply to convicted prisoners convicted for serious economic offences or bank scams or offences under

Special Acts (other than IPC) like MCOC, PMLA, MPID, NDPS, UAPA etc. (which provide for additional restrictions on grant of bail in addition to

those under the Code of Criminal Procedure, 1973 (2 of 1974) and also presently to foreign nationals and prisoners having their place of residence out

of the State of Maharashtra.

5 In view of the aforesaid provision, on completion of 45 days parole leave period, there should have been automatic extension of 30 days on each

occasion.

6 In that view of the matter, the Applicant be released on parole forthwith on the fresh application of the Applicant on same bond and the conditions,

which were imposed earlier while releasing the Applicant on parole for 45 days. The Respondent/Authority may not delay the process. After release

of the Applicant on parole, the concerned Authority shall strictly follow the aforesaid provisions and on completion of 45 days period of parole leave,

the said period of 45 days shall automatically stand extended for a period of 30 days in accordance with Rule 19(1)(C)(ii) till the Notification issued by

the State of Maharashtra under the Epidemic Diseases Act, 1897 is in force. 7 With the above observations, the Criminal Interim Application is

allowed and disposed of.

8 All concerned parties to act upon an ordinary copy of this order duly authenticated by the Court Sheristedar.