



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 280 OF 2026

Vinodkumar Chellappan Pillai,]
Age 51 years, Occ : Nil, Prisoner No. 9337,]
Presently confined at Kolhapur (Kalamba),]
Central Prison, Kolhapur.]
Permanent R/o : House No. 594, Sharnam,]
Vijaynagar, Deolali Camp, Nashik, 422401.] **...Petitioner.**

Versus

1. The State of Maharashtra]
2. The Deputy Inspector General of]
Prisons (West), Yerwada, Pune.]
3. The Superintendent, Kolhapur (Kalamba),]
Central Prison, Kolhapur.] **...Respondents.**

Mr. Muralidhar P. Kharat for the Petitioner.
Mr. Rupesh Jaiswal, amicus curiae.
Mr. A. A. Naik, APP for the Respondent-State.

Coram : Madhav J. Jamdar &
Pravin S. Patil, JJ.

Date : May 4, 2026.

Judgment [Per Madhav J. Jamdar, J.] :

1. Heard Mr. Kharat, learned Counsel appearing for the Petitioner, Mr. Naik, learned APP for the Respondent-State and Mr. Rupesh Jaiswal, learned advocate appointed as *amicus* to assist the Court.
2. By the present writ petition filed under Article 226 of the

Constitution of India, the Petitioner has sought following substantive reliefs :

“(a) This Hon’ble Court be pleased to Issue a Writ of Mandamus or any other appropriate writ, order, or direction, in the nature of Mandamus directing the Respondent authorities to forthwith consider and decide the parole application submitted by the Petitioner in a time-bound manner, preferably within one week;

(b) This Hon’ble Court be pleased to Issue a Writ of Mandamus or any other appropriate writ, order, or direction, in the nature of Mandamus directing the Respondents to release the Petitioner on parole for a period of 30 days, on such terms and conditions as this Hon’ble Court may deem fit and proper.”

3. It is the submission of Mr. Naik, learned APP that the Maharashtra Prisons (Furlough and Parole) Rules, 2024 [for short **“the Rules of 2024”**], and in particular Rule 14 of the same, provides that all prisoners (subject to certain exceptions) shall be eligible for regular parole on completion of one year of actual imprisonment. Learned APP submitted that as far as the Petitioner is concerned, the Petitioner has been convicted under Section 138 of the Negotiable Instruments Act, 1881 and has been sentenced to suffer simple imprisonment for 1 year and further directed to pay compensation of Rs.24 lakh to the complainant and in default of payment of compensation to suffer simple imprisonment for 6 months. Learned APP submitted that the Petitioner surrendered to the prison authority on 3rd May 2025 and sought to submit an application seeking parole leave on 23rd March 2026, however,

in view of the provisions of Rule 14 of the Rules of 2024, the Petitioner was asked to withdraw the said application.

4. Mr. Rupesh Jaiswal, learned *amicus* pointed out the Delhi High Court judgment in the case of ***Nadeem v. State (Govt of NCT of Delhi)***¹, Larger Bench judgment of this Court (at Nagpur Bench) in the case of ***Kantilal Nadlal Jaiswal v. Divisional Commissioner***², the Supreme Court judgment in the case of ***Asfaq v. State of Rajasthan***³ and also on the judgment of the Division Bench of this Court in the case of ***Balaji Abhaji Puyad v. State of Maharashtra***⁴.

5. Mr. Kharat, learned Counsel appearing for the Petitioner has also relied on the judgment of the Division Bench of this Court in the case of ***Balaji Abhaji Puyad*** (supra).

6. It is the submission of Mr. Jaiswal, learned *amicus* and Mr. Kharat, learned Counsel appearing for the Petitioner that Rule 14 of the Rules of 2024 is unconstitutional which prohibits that the prisoners (barring certain exceptions) shall be eligible for regular parole on completion of one year of actual imprisonment.

7. Before considering the rival contentions, it would be apt to note that the grounds on which parole may be granted are specified in Rule 12 of the Rules of 2024. Rule 13 of the Rules of 2024 provides for types

1 WP (Crl.) 3627 of 2025 dtd 6.11.2025.

2 (2020) 4 RCR (Cri) 426.

3 (2017) 15 SCC 55.

4 Crim WP (st) No. 21606 of 2024 decided on 25.10.2024.

of parole, namely, regular parole and emergency parole. Rule 14 of the Rules of 2024 speaks about the eligibility of prisoner for parole. All these rules are set out hereinbelow for ready reference :

“Rule 12.Grounds for grant of parole.

- (1) To deal with serious illness of his spouse, blood relatives, birth of his child, or attend to the aftermath of natural calamities like floods, fire, earthquake resulting in damage to his house and property.
- (2) To attend to the final rituals on the death of his blood relatives or spouse.
- (3) To attend to the marriage of his children and siblings.”

“Rule 13.Types of parole.

The parole is of following two types, namely.

- (1) Regular Parole- Regular parole may be granted to prisoner to attend serious illness of his spouse or blood relatives, birth of his child, marriage of his children or siblings or the aftermath of natural calamities like floods, fire, earthquake resulting in damage to his house and property.
- (2) Emergency Parole- Emergency parole may be granted to prisoner to attend the final rituals on the death of his spouse or blood relatives.”

“Rule 14.Eligibility for parole.

- (1) All prisoners except foreign prisoners, prisoners sentenced to death and prisoners sentenced to imprisonment for life till death, shall be eligible for regular parole, **“on completion of one year of actual imprisonment.”**
- (2) All prisoners except foreign prisoners are eligible for emergency parole.”

(Emphasis added)

8. Before analysing the above rules, it is required to be noted that “prisoner” is defined under Rule 2(f) of the Rules of 2024 means the convicted prisoner.

9. Thus, parole is granted to deal with serious illness of prisoner’s spouse or blood relatives or birth of prisoner’s child, or to attend to the aftermath of natural calamities like floods, fire, earthquake resulting in damage to the house or property of prisoner. So also, the parole is granted to attend to the final rituals on the death of prisoner’s blood relatives or spouse. Parole is also granted to the prisoner to attend the marriage of his children and siblings. Emergency parole as per Rule 13 of the Rule 2024 may be granted to the prisoner to attend the final rituals on the death of his spouse or blood relatives. Rule 14 provides that for being eligible for regular parole, the prisoner shall complete one year of actual imprisonment.

10. For considering the constitutional validity of Rule 14 by which it is provided that prisoner *inter alia* has to complete one year of actual imprisonment before seeking parole leave, it is necessary to discuss the decision of the Larger Bench of this Court in the case of ***Kantilal Nadlal Jaiswal*** (supra).

11. The questions referred to the Larger Bench of this Court in the case of ***Kantilal Nadlal Jaiswal*** (supra) are set out in paragraph 2 of the said decision, which read thus :

“(i) Whether parole is a right or a concession offered by the State or a mere administrative decision of the State dictated by its administrative policy or a special right of a prisoner in special circumstances or something else ?

(ii) Whether proviso to Rule 19(2) introduced in terms of notification dated 16th April, 2019 is violative of Article 14 and Article 21 of the Constitution of India and if yes, what treatment must it be given ?”

Question No.(i) has been answered by the Larger Bench in paragraph no.23 as follows :

“Therefore, question (i) referred to this Bench is answered by holding that parole is not a mere administrative decision dictated only by the administrative policy of the State but it is a limited legal right available to the convict or prisoner subject to satisfaction of the requirements specified in the Rules of 1959 for grant of parole, with the avowed objectives to be achieved as specified in Rule 1(A) of the said Rules.”

Thus, what has been held by the Larger Bench is that parole is a limited legal right available to the prisoner subject to satisfaction of the requirements specified in the Rules for grant of parole for the purpose of achieving the objectives as specified in Rule 1(A) of the Prisons (Bombay Furlough and Parole) Rules, 1959.

12. As far as question no.(ii) referred to the Larger Bench is concerned, it is relevant to note that Rule 19(2) of the Prisons (Bombay Furlough and Parole) Rules, 1959 reads as under :

“19. When a prisoner may be released on emergency parole:-

(1).....

(2) All the prisoners eligible for furlough shall be eligible

for regular parole for following reasons:—

- a. Serious illness of father/mother/spouse/son/daughter.
- b. Delivery of wife (except high security risk prisoners).
- c. In case of natural calamities such as house collapse; flood, fire, earthquake, etc.

Provided that, a prisoner shall not be released on emergency or regular parole for the period of one year after the expiry of his last emergency or regular parole except in case of death of his nearest relatives mentioned. Above.”

(Emphasis added)

The relevant observations of the Larger Bench are in paragraph No.33 to 42, which reads thus :

“33. A perusal of Rule 19(2) of the Rules of 1959 quoted above, shows that such a basis for creating an exception certainly had no nexus with the objectives for grant of parole leaves specified in Rule 1(A) of the Rules of 1959. If the objectives for grant of parole leave included under Rule 1(A)(a) to enable the inmate to maintain continuity with family life and under Rule 1(A)(d) to enable him/her to develop active interest in life, it is difficult to understand why the prisoner in whose case period of one year from grant of last emergency or regular parole has expired, cannot be released even when he has a genuine case to show that either his father or mother or spouse or son or daughter is suffering from serious illness or that a natural calamity has occurred such as house collapse, flood, fire or earthquake. It appears to be highly insensitive and even cruel that a prisoner is to be told that since period of one year from the last emergency or regular parole has expired, he cannot be granted parole even if there is serious illness of close relatives or that a natural calamity has occurred, because such events are uncertain and he can be granted parole only if there is death, which is a certainty. In other words, a prisoner, just because the aforesaid period of one year is to expire, will not be able to see his/her close relatives during serious illness, even facing death, and also when a natural calamity occurs, but he would have to wait for death to occur for grant of parole. **This runs absolutely counter to the said avowed objectives of the Rules of 1959, pertaining to grant of parole as specifically stated in Rules**

1(A)(a) and (d) of the Rules of 1959. This indicates that apart from the classification test, the aforesaid proviso to Rule 19(2) of the Rules of 1959, is manifestly arbitrary on the face of it.

34. In this context, the position of law enunciated in a recent judgment of the Hon'ble Supreme Court in the case of *Navtej Singh Johar v. Union of India*, reported in (2018) 10 SCC 1, assumes significance. It is stated by the Hon'ble Supreme Court in the context of the content of the right to equality under Article 14 of the Constitution of India, as follows:—

“409. Equating the content of equality with the reasonableness of a classification on which a law is based advances the cause of legal formalism. The problem with the classification test is that what constitutes a reasonable classification is reduced to a mere formula : the quest for an intelligible differentia and the rational nexus to the object sought to be achieved. In doing so, the test of classification risks elevating form over substance. The danger inherent in legal formalism lies in its inability to lay threadbare the values which guide the process of judging constitutional rights. Legal formalism buries the life-giving forces of the Constitution under a mere mantra. **What it ignores is that Article 14 contains a powerful statement of values - of the substance of equality before the law and the equal protection of laws. To reduce it to a formal exercise of classification may miss the true value of equality as a safeguard against arbitrariness in State action. As our constitutional jurisprudence has evolved towards recognizing the substantive content of liberty and equality, the core of Article 14 has emerged out of the shadows of classification. Article 14 has a substantive content on which, together with liberty and dignity, the edifice of the Constitution is built. Simply put, in that avatar, it reflects the quest for ensuring fair treatment of the individual in every aspect of human endeavour and in every facet of human existence.”**

35. **Applying the said test to the said proviso to Rule 19(2) of the Rules of 1959, would show that it can be termed to be nothing but manifestly arbitrary.**

36. The contentions raised on behalf of the respondents go against the law laid down by the Hon'ble Supreme Court,

specifically in the context of parole leaves, in the case of *Asfaq v. State of Rajasthan* (supra). The respondents are not justified in contending that Articles 14, 19 and 21 of the Constitution of India in their restricted form are available to prisoners only within four walls of the jail and they are available only in the context of quality of food and such other facilities inside jail. **The objectives specified in Rule 1(A) of the Rules of 1959, as also the evolution of law pertaining to parole, noted by the Hon'ble Supreme Court in *Asfaq v. State of Rajasthan* (supra) shows that the prisoner does have a right to be treated with dignity and in a non-arbitrary manner even when his/her application for parole leave to come out of the four walls of the jail, is to be considered within the rigours of the mechanism laid down in the Rules of 1959. Introduction of the said proviso to Rule 19(2) of the Rules of 1959 goes against the grain of the said evolution of law, as also the very objectives encapsulated in Rule 1(A), thereby rendering it whimsical, arbitrary and hence unsustainable.**

37. **The respondents-State Authorities cannot be permitted to raise the bogey of misuse of the facility of parole to introduce such a proviso, which runs counter not only to the aforesaid objectives specified in Rule 1(A) of the said Rules, but it violates the rights available to convicts and prisoners under Articles 14, 19 and 21 of the Constitution of India, in the context of consideration of their applications for grant of parole.** It is relevant to note that even in the judgment of *Amit Gajanan Gandhi v. State of Maharashtra* (supra) when the Division Bench of this Court referred to gross misuse and misutilisation of the provision of parole, it was specifically noted in paragraph 12 as follows:—

“12..... This is a case of sheer casual approach and gross negligence on the part of authorities in dealing with the provision of parole.”

38. **Thus, viewed from any angle, the arbitrariness of the said proviso is evident** and in that context reference made by the learned senior counsel for the petitioner to judgment of the Hon'ble Supreme Court in the case of *State of Madhya Pradesh v. Nandlal Jaiswal* reported in (1986) 4 SCC 566 becomes

relevant. In the said judgment, while acknowledging the fact no one could claim as against the State, a right to carry out a trade or business in liquor and the State could not be compelled to part with its exclusive right to do so, **it was held that when the State decides to grant such right or privilege to others, the State cannot escape the rigour of Article 14 of the Constitution of India. Thus, even if facility of parole could be a policy of the State whereby it had conceded a limited right to the convict or prisoner within the four corners of the Rules of 1959, once such a limited right was conceded, the State was bound to operate such a procedure under the said Rules, in a non-arbitrary manner. The moment it is found that the insertion of proviso to Rule 19(2) of the Rules of 1959 is arbitrary and it violates Article 14 of the Constitution of India, it deserves to be struck down as being invalid and unconstitutional. The right of a convict or prisoner under Article 21 of the Constitution of India to be treated with dignity would also require the State to treat such prisoners and convicts in a non-arbitrary manner and not at its whims and fancies. Therefore, on the touchstone of both Article 14 and Article 21 of the Constitution of India, the aforesaid proviso to Rule 19(2) of the Rules of 1959 is found to be ultra vires, unconstitutional and liable to be struck down.**

39. This aspect was never brought to the notice of the Division Bench of this Court in the case of *Gajanan Babulal Bathulwar v. State of Maharashtra* (supra). At this juncture, it is relevant to observe that **the repeated introduction and deletion of the said proviso to Rule 19(2) of the Rules of 1959, on the part of the State shows that even the State is not clear about its own policy. Such repeated somersaults in the State policy show the arbitrary manner in which the State has been treating prisoners and convicts in the State of Maharashtra. The dates noted above show that between 28.11.1989 and 06.02.2007, the proviso operated while between 07.02.2007 and 22.02.2012, it stood deleted, during which period the said limitation of period of one year did not apply to applications made by the convicts or prisoners for grant of parole. The proviso again stood added and operated when applications were considered for grant of parole between 23.02.2012 and 25.08.2016, where after again it stood deleted and between the period 26.08.2016 and 15.04.2018,**

it did not apply. Thereafter, on 16.04.2018 the said proviso was again brought back in the Rules. The arbitrary approach of the State is manifested in the manner in which it has chosen to treat convicts and prisoners in the State of Maharashtra, in the context of grant or refusal of parole, at its own whims and fancies.

40. In view of the above, it is found that the proviso to Article 19(2) of the Rules of 1959 introduced in terms of Notification dated 16.04.2018 violates Article 14 and 21 of the Constitution of India and thereby question (ii) is answered against the State.

41. Accordingly, the said proviso to Rule 19(2) of the Rules of 1959 introduced in terms of Notification dated 16.04.2018 is struck down as violative of Articles 14 and 21 of the Constitution of India and it is found to be ultra vires even to the objectives stated in Rule 1(A) of the Rules of 1959.”

(Emphasis added)

13. Thus, the Larger Bench of this Court in ***Kantilal Nandlal Jaiswal*** (supra), in the context of challenge to the constitutional validity of proviso to Rule 19(2) of the Rules of 1959 has *inter alia* held as follows:

(i) Rule 19(2) of the Rules of 1959, shows that a basis for creating an exception certainly had no nexus with the objectives for grant of parole leaves specified in Rule 1(A) of the Rules of 1959. If the objectives for grant of parole leave included under Rule 1(A)(a) to enable the inmate to maintain continuity with family life and under Rule 1(A)(d) to enable him/her to develop active interest in life, it is difficult to understand why the prisoner in whose case period of one year from grant of last emergency or regular parole has expired, cannot be released even when he has a genuine case to show that either his father or mother or spouse or son or daughter is suffering from serious illness or that a natural calamity has occurred such as house collapse, flood, fire or earthquake. This runs absolutely counter to the said avowed objectives of the Rules of 1959, pertaining to grant of parole as specifically stated in Rules 1(A)(a) and (d) of the Rules of 1959. This indicates that apart from

the classification test, the aforesaid proviso to Rule 19(2) of the Rules of 1959, is manifestly arbitrary on the face of it.

(ii) The Larger Bench relied on the decision of the Supreme Court in the case of **Navtej Singh Johar** (supra) where the test of classification has been laid down. While applying the said classification test the larger bench held that the proviso to Rule 19(2) of the Rules of 1959, would show that it can be termed to be nothing but manifestly arbitrary.

(iii) The objectives specified in Rule 1(A) of the Rules of 1959, as also the evolution of law pertaining to parole, noted by the Hon'ble Supreme Court in **Asfaq v. State of Rajasthan** (supra) shows that the prisoner does have a right to be treated with dignity and in a non-arbitrary manner even when his/her application for parole leave to come out of the four walls of the jail, is to be considered within the rigours of the mechanism laid down in the Rules of 1959. Introduction of the said proviso to Rule 19(2) of the Rules of 1959 goes against the grain of the said evolution of law, as also the very objectives encapsulated in Rule 1(A), thereby rendering it whimsical, arbitrary and hence unsustainable.

(iv) The State Authorities cannot be permitted to raise the bogey of misuse of the facility of parole to introduce such a proviso, which runs counter not only to the aforesaid objectives specified in Rule 1(A) of the said Rules, but it violates the rights available to convicts and prisoners under Articles 14, 19 and 21 of the Constitution of India, in the context of consideration of their applications for grant of parole.

(v) Even if facility of parole could be a policy of the State whereby it had conceded a limited right to the convict or prisoner within the four corners of the Rules of 1959, once such a limited right was conceded, the State was bound to operate such a procedure under the said Rules, in a non-arbitrary manner. The moment it is found that the insertion of proviso to Rule 19(2) of the Rules of 1959 is arbitrary and it violates Article 14 of the Constitution of India, it

deserves to be struck down as being invalid and unconstitutional.

(vi) The right of a convict or prisoner under Article 21 of the Constitution of India to be treated with dignity would also require the State to treat such prisoners and convicts in a non-arbitrary manner and not at its whims and fancies. Thus, it was held that on the touchstone of both Article 14 and Article 21 of the Constitution of India, the aforesaid proviso to Rule 19(2) of the Rules of 1959 is found to be *ultra vires*, unconstitutional and is liable to be struck down.

(vii) Accordingly, the said proviso to Rule 19(2) of the Rules of 1959 introduced in terms of Notification dated 16.04.2018 was struck down by the larger bench as violative of Articles 14 and 21 of the Constitution of India and it was found to be *ultra vires* even to the objectives stated in Rule 1(A) of the Rules of 1959.

14. The above observations of the Larger Bench are squarely applicable to Rule 14 of the Rules of 2024.

15. A perusal of Rule 14 of the Rules of 2024 shows that the cap of completion of actual imprisonment of one year placed for consideration of parole has no basis or nexus with the grounds for grant of parole. The parole i.e. regular parole leave is to be granted for the following reasons :

- (i) To deal with serious illness of prisoner's spouse or blood relatives or birth of prisoner's child,
- (ii) To attend to the aftermath of natural calamities like floods, fire, earthquake resulting in damage to the house and property of prisoner.
- (iii) To attend to the marriage of children or siblings of the prisoner,

etc.

16. Thus, if the prohibition in Rule 14 of the Rules of 2024 is considered from the point of view of reasons for which parole is to be granted, it is very clear that the cap of one year of actual imprisonment has nothing to do with the grounds specified for grant of parole leave.

17. It is required to be noted that the Rules of 2024 will apply only to the convicted prisoners. Till that time, when the trial is pending, the prisoner can apply for temporary bail, if necessary, on the grounds specified in Rule 12 of the Rules of 2024. After the conviction, prisoner has a only remedy of parole leave (except the bail application for temporary bail in criminal appeals, if pending). It is also relevant to note that as per Rule 19 of the Rules of 2024, the period spent on parole shall not be counted towards the period of sentence.

18. It is clear that the parole and furlough rules are enacted for the specific purposes. The furlough leave is to enable the prisoner to deal with his family matters, to develop active interest in life, to save him from the evil effects of continuous prison life, to enable him to maintain and develop his self-confidence and enable the prisoner to develop constructive hope and active interest in life. As far as objectives for grant of parole leave are concerned, the same are that the prisoner should be available to family to deal with serious illness of spouse or blood relatives, to help the family to overcome the aftermath of natural

calamities resulting in damage to the house or property of the prisoner. Also parole is to be granted if there is birth of prisoner's child or to enable the prisoner to attend the marriage of children and siblings. Thus, if objectives or grounds for which the parole leave is to be granted are considered, then, it is very clear that the cap of one year provided by Rule 14 of the Rules of 2024 has no nexus with the objectives specified for grant of parole leave. The observations in paragraph 33 of the Larger Bench judgment in the case of ***Kantilal Nadlal Jaiswal*** (supra) with respect to proviso to Rule 19(2) of the Prisons (Bombay Furlough and Parole) Rules, 1959 are also squarely applicable to Rule 14 of the Rules of 2024.

19. It is very clear that providing the cap of one year of actual imprisonment as specified in Rule 14 of the Rules of 2024 is manifestly arbitrary and violates Articles 14 and 21 of the Constitution of India.

20. The Supreme Court in ***Asfaq*** (supra) has held as follows in paragraph 18 :

“18. The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they

frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.”

(Emphasis added)

Thus, what has been held by the Supreme Court is that the provisions of parole and furlough provide for a humanistic approach to afford the prisoners an opportunity to solve their personal and family problems and to enable them to maintain their links with society.

21. The observations of the Supreme Court in paragraph 18 above are squarely applicable to the present case and clearly show that the said prohibition as provided in Rule 14 of the Rules 2024 is manifestly arbitrary and violates Articles 14 and 21 of the Constitution of India.

22. Accordingly, we hold that the prohibition of one year of actual imprisonment provided in Rule 14 of the Rules of 2024 is violative of Articles 14 and 21 of the Constitution of India and is *ultra vires* the grounds / objectives stated in Rule 14 of the Rules of 2024. Accordingly, following portion of Rule 14(1) of the Rules of 2024, is held as violative of Articles 14 and 21 of the Constitution of India and is *ultra vires* and thus struck down.

“on completion of one year of actual imprisonment”

23. In the facts and circumstances of the case, we direct the Deputy Inspector General of Prisons (West), Yerwada, Pune to decide in accordance with law the said application dated 23rd March 2026 / 11th

April 2026 / 22nd April 2026 of the Petitioner on or before 15th May 2026.

24. As the transcribing of detailed judgment will take some time, this operative order / direction given to the Prison authority to be uploaded immediately.

25. This Court places on record the appreciation for the able assistance rendered by Advocate Mr. Rupesh Jaiswal, *amicus* appointed by this Court.

26. Writ petition stands disposed of.

[Pravin S. Patil, J.]

[Madhav J. Jamdar, J.]