

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2020

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE H.P.SANDESH

WRIT PETITION NO.7484/2020 (GM-RES) PIL

BETWEEN:

1. SRI SYED SHANTAJ,
S/O SYED ABDUL GAFFAR,
AGED ABOUT 62 YEARS,
R/O KANNAMANGALA PALYA,
KASBA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DIST.-562 110.
2. SRI M. MURTHY,
AGED 60 YEARS,
NO.4/54, 50 FEET ROAD,
12TH CROSS, CHOWDESHWARI NAGAR,
LAGGERE, BANGALORE – 560 078.
PROPRIETOR:
SRI M.M. FABS AND TOOLS.
3. SRI C. SUBBARAYAN,
S/O SRI CHEVATTAN,
NO.81 (31), SHAMANNA BUILDING,
1ST MAIN, 1ST CROSS, MATHIKERE,
BANGALORE.
4. SRI SYED MOHIDDIN,
S/O LATE SYED AHMED HUSSAIN,
CENTRAL PRISON AGRAHARA,
BENGALURU.
PRISON NO.10211. ... PETITIONERS

(BY SRI SHAIKH SAOUD, ADVOCATE)

AND:

1. THE GOVERNMENT OF KARNATAKA,
REPRESENTED BY:
THE CHIEF SECRETARY,
VIDHAN SOUDHA,
BENGALURU – 560 001.
2. THE CHIEF SUPERINTENDENT,
CENTRAL PRISON,
PARAPPANA AGRAHARA,
BENGALURU. ... RESPONDENTS

(BY SRI VIJAYAKUMAR A. PATIL, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE NOTICE DATED 15.4.2020 AMENDING PAROLE RULES UNDER KARNATAKA EPIDEMIC DISEASES COVID-19 IN THE INTEREST OF SECURITY OF THE STATE STATING THAT A SENTENCE OF DEFAULT OF FINE PRECEDED WITH SUBSTANTIVE SENTENCE SHALL NOT BE RELEASED ON PAROLE UNDER COVID-19 PROVISION ANNEXURE-B. THE NOTICE DATED 15.4.2020 AMENDING PAROLE RULES UNDER KARNATAKA EPIDEMIC DISEASES COVID-19 IN THE INTEREST OF SECURITY OF THE STATE STATING THAT PRISONERS UNDER OFFENCES BEING INVESTIGATED BY NIA/CBI/ED/ OR ANY CENTRAL AGENCY OR UNDER ANY ECONOMIC OFFENCES SHALL NOT BE RELEASED ON PAROLE UNDER COVID-19 PROVISIONS ANNEXURE-C, AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THROUGH VIDEO CONFERENCING THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

Heard the learned counsel appearing for the petitioners and the learned Additional Government Advocate appearing for the State.

2. In this petition, the challenge is to a proviso added after clause (a) of sub-rule (3) of Rule 191 of the Karnataka Prison Rules, 1974. Under the proviso, a power was conferred to release the prisoners on emergency parole till Karnataka Epidemic Diseases COVID-19 Regulations, 2020 are in force. Exceptions are carved out to the said provision in the second proviso in the cases of category of prisoners convicted for the offences mentioned under clauses (a) to (p). Clause (n) is in respect of the cases of prisoners who are undergoing sentence in default of fine not preceded with substantive sentence.

3. The order dated 16th June 2020 clearly shows that this Court made it very clear that it will consider the challenge only limited to clause (n). The other challenge was to an exception carved out which is an application in case of prisoners in whose cases, the offences are investigated by NIA/CBI/ED or any Central Agency or under any Economic Offences.

4. The memo filed by the State Government on 24th July 2020 indicates that clause (n) has been omitted by the Karnataka Prison (Amendment) Rules, 2020. The said

amendment Rule has come into force on 23rd June 2020, as it was e-gazetted on that day.

5. Therefore, the prayers made in the petition need not be granted. We, however, make it clear that in case of prisoners whose applications for parole were rejected relying upon the aforesaid clause (n), which is now deleted, it will be open for them to make fresh applications for parole, which shall be decided by the concerned authority empowered to grant parole as expeditiously as possible, keeping in view the direction issued by the Apex Court on 23rd March 2020 in *suo motu* Writ Petition (Civil) No.1/2020.

6. The petition is accordingly disposed of.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

MD