

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1255 OF 2015

Amrut Shantaram Upde

...PETITIONER

VERSUS

The State of Maharashtra

...RESPONDENT

...

Smt. Ranjana Reddy Advocate appointed
for Petitioner.

Mr. A.R. Borulkar, A.P.P. for Respondent.

...

**CORAM: A.V. NIRGUDE AND
V.K. JADHAV, JJ.**

DATE : 26TH OCTOBER, 2015

ORDER :

1. This Petition challenges order dated 27/06/2011 passed by the Divisional Commissioner, Aurangabad refusing to grant extension of the period of Parole leave of the Petitioner.

2. The facts leading to this litigation, in short, can be stated as under:-

. The Petitioner is a life convict. He has spent more than 16 years in jail. On 17/05/2015 he was released on Parole for a period of 30 days on the ground that his wife was seriously ill. On 20/05/2011 the Petitioner moved application seeking extension of Parole leave for one month. As per Rule 19 read with Rule 25 of the Prisons (Bombay Furlough and Parole) Rules, 1959, police report was called immediately. The police submitted report to the Divisional Commissioner on 18/06/2011. Thereafter on 27/06/2011 the impugned order was passed. On 17/07/2011 the Petitioner came back to the Jail on his own. The Authorities held that the Petitioner remained away from Jail without getting the extension of period of Parole of one month and therefore he was penalized according to the Rules.

3. The question before us is, whether the order dated 27/06/2011 suffers from any

illegality. Rule 22 of the Rules contemplates that on receiving application for Parole, the concerned District Superintendent of Police should immediately make inquiry to ascertain whether the ground on which Parole was applied, is genuine or not. It further contemplates that report should be sent immediately to the Competent Authority (in this case the Competent Authority was the Divisional Commissioner). Upon receiving such report, the Competent Authority is required to pass necessary order.

4. The release of the Petitioner on Parole on 17/05/2011 was for 30 days and he was due to return to the Jail on 16/06/2011. But about three weeks prior thereto, an application seeking extension of parole leave was moved on 20/05/2011. If one goes by the procedure laid down under Rule 22 of the Rules, even the order on the Petitioner's application seeking extension of Parole, ought to have been passed prior to

16/06/2011. Sufficient time was available to the Authorities to process the application and take decision. Unfortunately, this did not happen in this case. The police report itself came to the Divisional Commissioner on 18/06/2011. The delay thus vitiated the proceeding.

5. We are, therefore, inclined to set aside the order dated 27/06/2011 passed by the Divisional Commissioner, Aurangabad. We, therefore, hold that the Petitioner's application seeking extension of parole for 30 days is deemed to have been allowed. In view of this decision, the Petitioner shall not suffer any penal action for his absence of 30 days in the Jail from 16/06/2011 to 16/07/2011.

6. The Writ Petition stands disposed of, accordingly.

[V.K. JADHAV, J.]

[A.V. NIRGUDE, J.]