

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 774 OF 2015

RAMESH SURESH KODRE
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

...
Advocate for Petitioner : Mr. A. N. Sabnis, Advocate h/f Gour Rashmi P.
APP for Respondent/State : Mr. M. M. Neralikar.

CORAM : S.S. SHINDE & A.M. BADAR, JJ.
DATE : 27th AUGUST, 2015.

PER COURT:

1] Heard.

2] Rule. Rule made returnable forthwith with consent of parties.

3] This petition takes exception to the order dated 21st May, 2015, passed by the respondent No.2 thereby rejecting the application of the petitioner requesting his release on furlough.

4] Learned counsel for the petitioner submits that, it is true that on as many as 7 occasions, when the petitioner was released on furlough/parole, he returned late, however, on that ground, remission is deducted on 4 occasions and the authorities are in process to deduct the remission for late returning on other 3 occasions. Learned counsel invited our attention to the affidavit filed by the petitioner giving assurance that in case he is released on furlough, he will return back as soon as the period of said furlough leave comes to an end.

5] Learned APP invited our attention to the affidavit in reply on behalf of respondent No.3 and in particular, to the chart annexed to the said affidavit in reply and submitted that in the past, the petitioner was released on furlough/parole on as many as 7 occasions and on every occasion, he returned back late. Therefore, the application for furlough leave filed by petitioner is rightly rejected by the respondent authority.

6] We have heard learned counsel for both the parties, perused the pleadings in the petition with annexures thereto, the affidavit in reply filed by respondents and annexures thereto. It is true that it is not in dispute that on as many as 7 occasions in the past, when the petitioner was released on furlough/parole, he reported back late i.e. after the period of furlough leave was over. Respondent Nos. 2 and 3, in their affidavit in reply, have given details about the said delay in reporting back. It is true that on as many as 7 occasions, the petitioner reported back/surrendered late. However, on that ground, atleast on 4 occasions, remissions are already deducted and the authorities are under process to deduct remissions for remaining 3 occasions.

7] In the light of the contentions in affidavit which is filed by the petitioner, the assurance given by the petitioner is that in case he is released on furlough in future, he will report back as soon as the said period comes to end. It is not in dispute that the petitioner is a convict, undergoing imprisonment in open prison, Paithan. The fact that the petitioner is lodged

in open prison, is an indication that his conduct is otherwise good.

8] In that view of the matter, we are inclined to allow this petition. The impugned is quashed and set aside. Respondent No.2 is directed to reconsider the petitioner's prayer for furlough and take a decision within two weeks from today. It is made clear that the petitioner's prayer shall not be rejected on the ground of surrendering late on previous occasions. However, subject to fulfillment of other conditions, if any, his application be considered.

9] Rule made absolute in above terms. Parties to act upon authenticated copy of this order.

[A.M. BADAR]
JUDGE

[S.S. SHINDE]
JUDGE.

grt/-