

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 2775 of 2015**

Firoz Abdul Aziz Pathan

.. Petitioner

v/s.

The State of Maharashtra & Ors.

..Respondents

Mr. N.N. Gawankar i/b M.N. Gawankar for the petitioner  
Mrs. P.H. Kantharia, APP for respondent State

**CORAM: RANJIT MORE &  
SMT. ANUJA PRABHUDESSAI, JJ.  
DATED: 15<sup>th</sup> JULY, 2015.**

**P.C.**

1. The petitioner is a life prisoner and at present confined at Yerawada Open Prison. The petitioner was granted furlough leave for a period of 14 days, by order dated 22.06.2015. The petitioner was accordingly released from Yerawada Open Prison on 27.06.2015. The period of 14 days expired on 11.07.2015.

2. On 02.07.2015, the petitioner made an application to respondent no.2 for extension of his furlough leave. Since this application was not decided, the petitioner approached this Court

by filing Criminal Writ Petition No.2712 of 2015. That petition came to be disposed of by order dated 10.07.2015. By the said order, we had directed respondent no.3 to dispose of the petitioner's application for extension of furlough leave on or before 14.07.2015 and in the meanwhile furlough leave granted to the petitioner by order dated 22.06.2015 was extended till 15.07.2015. Since the petitioner's application was not decided till yesterday, the petitioner urgently moved this Court by filing the present petition.

3. Learned APP states that the petitioner's application for extension of furlough leave has been rejected by respondent no.3 vide order dated 14.07.2015. Learned APP tenders copy of order dated 14.07.2015 passed by the respondent no.3. Perusal of the same reveals that the petitioner's application is rejected on the ground that in the year 2015, the petitioner was already granted 14 days extension of furlough leave for the period 19.12.2014 to 01.01.2015 and since the petitioner has already availed extension in the calendar year 2015, he cannot be granted another extension

during the same year.

4. It is stated that the prisoner is entitled for only one extension of 14 days furlough leave during one calendar year. The respondent no.3 has considered the extension granted for the period from 19.12.2014 to 01.01.2015 as an extension of furlough leave for the calendar year 2015. The order does not reveal that during the calendar year 2014, the petitioner had already availed extension of furlough leave prior to availing the extension for the period from 19.12.2014 to 01.01.2015.

5. Under the circumstances, the extension of furlough leave for the period from 19.12.2014 to 01.01.2015 cannot be considered as an extension for the calendar year 2015. The fact that the said extension spreads over to one day of the calendar year 2015, would not *per se* make it an extension for the calendar year 2015. Hence, in our considered view, the reasons for rejection are not valid and hence the order cannot be sustained.

6. The petitioner was granted furlough leave from 27.06.2015 to 11.07.2015. The said period was extended by us till 15.07.2015. Considering that the furlough leave is the right of the prisoner and the reasons for refusal are not valid, we are inclined to extend the furlough leave of the petitioner till 25.07.2015 on the same terms and conditions as stated in the order dated 22.06.2015. Ordered accordingly.

7. The petitioner shall surrender to Yerawada Open Prison on 26.07.2015 at 5.00 p.m.

8. Parties to act on an authenticated copy of this order.

**(ANUJA PRABHUDESSAI, J.)**

**( RANJIT MORE, J.)**