

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.50 OF 2015

(Bandu @ Hemant s/o Yadavrao Kothe vs. State of Maharashtra and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Mr. N.H. Samundre, Advocate for petitioner.

Ms. T. Udeshi, Additional Public Prosecutor for
respondents.

CORAM : A.B. CHAUDHARI AND
 P.N. DESHMUKH, JJ.

DATED : MARCH 4, 2015

The petitioner has approached this Court
being aggrieved by rejection of his application for
parole for 30 days by the impugned order dated
17/12/2014 passed by respondent no.1.

Heard learned Counsel for the parties and
perused the affidavit-in-reply filed by respondents.
It appears that petitioner is undergoing life
imprisonment for the offence punishable under
Section 302 of Indian Penal Code and his application

for parole came to be rejected considering adverse Police report and on the grounds that there is possibility of breach of peace and tranquility and petitioner is habitual in surrendering late in prison.

We have perused the chart given in the affidavit-in-reply filed by respondents wherefrom it is revealed that earlier when petitioner was released on furlough and parole, he surrendered late by 166 days and was required to be arrested and brought back to prison after 339 days respectively.

In the above circumstances, learned Counsel for the petitioner has relied upon the judgment in the case of **Arun Shankar Ralmingam Naidu vs. The State of Maharashtra** (2013 ALL MR (Cri) 1279) wherein Division Bench of this Court has taken a view that grounds on which application for parole can be considered are totally different from one on which application for furlough can be considered. It has been held that merely because prisoner over-stayed, it cannot be a ground to deny parole to him.

In the present petition, we find that apart

from surrendering late, petitioner was required to be arrested and brought back to prison after 339 days. Moreover, it is pertinent to note that petitioner has claimed parole on the ground of illness of his wife. However, the medical certificate relied upon is dated 22/10/2014 wherein Smt. Pushpa Kothe is stated to be suffering from HT with AHD with C&D and is advised angiography and treatment. Nothing is brought on record as regards condition of alleged ailment of petitioner's wife except for filing medical certificate dated 3/2/2015 certifying that above named patient is advised hospitalization and regular follow up treatment. It appears that wife of petitioner is undergoing treatment. In that view of the matter, we find no substance in the criminal writ petition. Hence, criminal writ petition is dismissed.

JUDGE

JUDGE

khj