

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

CRIMINAL WRIT PETITION NO. 318 OF 2015.

Gopal Madhukar Babatkar ..vs.. The Div.Commissiner, Amt.Div.Amt. and anr.

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

Court's or Judge's orders

Ms.S.H.Bhatia, Adv. (appointed) for the petitioner.
Ms.N.Mehta, APP for the State.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : JULY 8, 2015.

Heard Ms.Bhatia learned counsel (appointed) for the petitioner and learned Additional Public Prosecutor for the State.

Perused the impugned order and record, and also reply-affidavit dated 8th of May, 2015. Petitioner/prisoner was released on parole for period of 30 days on 2nd of September, 2014 on account of illness of his mother. On the strength of certificate issued by Doctor on 7th of September, 2014 mentioning that his mother suffers from hypertension, heart disease with fibroid uterus and was admitted in hospital, he sought further extension of 30 days. Said extension, if granted would have expired on 2nd of November, 2014. The extension came to be denied by impugned order dated 10th of November, 2014. It is not in dispute that petitioner has reported back and is presently in jail.

According to Adv.Bhatia, petitioner reported back immediately after communication of order rejecting the extension. According to learned APP, he returned back before that date. However, exact date of his return to Prison is not on record.

Reply filed by respondent through its Naib Tahsildar reveals

that petitioner was released on parole on 2nd of September, 2014 for 13 days. The application sent by petitioner mentions that for belated reporting of 41 days total remission of 205 days has been cut. Adv. Bhatia submitted that no proceedings are filed for challenging the said cut in remission by said prisoner.

It is, therefore, obvious that there is some confusion insofar as basic facts are concerned. Petitioner/prisoner is in jail and counsel has been provided to him by this Court. Counsel (Ms.Bhatia) also does not have full instructions in this situation. However, facts demonstrate that considering the illness of mother, petitioner was given parole leave.

In this situation, we quash and set aside impugned order dated 10th of November, 2014. We direct respondent to pass fresh orders in accordance with law after considering all facts. Fresh orders shall be passed within period of eight weeks.

With this direction, Writ Petition is allowed and disposed of.

Counsel charges for learned counsel appointed for the petitioner are fixed at Rs.1500/-.

JUDGE

JUDGE

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