

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

CRIMINAL WRIT PETITION (CWP) NO. 313 OF 2015

(Ravi Ramkrushna Yelekar vs. D.I.G. Prison (E)(R), Nagpur & Anr.)

AND

CRIMINAL WRIT PETITION (CWP) NO. 343 OF 2015

(Ravi Ramkrushna Yelekar vs. D.I.G. Prison (E)(R), Nagpur & Anr.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
JULY 06, 2015.**

Heard Ms. Saware and Ms. Gajbhiye, learned counsel (appointed) for the petitioner in respective petitions and Mrs. Tripathi, learned APP for the respondents.

The prisoner – Ravi Ramkrushna Yelekar, sent applications dated 19.03.2015 and 20.03.2015, assailing order dated 10.03.2015, denying furlough leave to him. Two applications have been sent as such two petitions are registered and two learned counsel are representing his case.

The learned APP has filed similar affidavit in both the matters.

After hearing, we find that the petitioner is in jail since last about 10 years. He has been released on six occasions and on all occasions he has reported late but was not required to be arrested. He has surrendered voluntarily.

The respective counsel for the petitioner – prisoner state that in this situation, merely late surrender cannot be used to deny him furlough leave. They are placing reliance upon certain judgments.

The learned APP, however, states that as per provisions contained in Section 4(10)(10) of Prisons (Bombay Furlough and Parole) Rules 1959, the petitioner is not entitled to furlough leave.

The controversy is looked into by this Court in the case of Raju @ Rajabhau Bhagwantrao Wankhede vs. D.I.G. Prisons (E)(R) & Anr., reported at 2015 (1) BCR (Cri.) 64 = 2015 ALL MR (Cri) 1934, wherein validity of said provision was questioned. This Court has found that mere late surrender by itself is not sufficient to deny furlough leave and reasons therefor must find evaluation in the impugned order. The impugned order does not show evaluation of any such reasons.

Moreover, it has also been pointed out in the impugned order that if the petitioner is released on furlough, there is likelihood of breach of peace, as the complainant resides in the very same locality.

Earlier, the petitioner was released on more than six occasions and though he reported late, there is no complaint of any threatening by the said complainant and there is no complaint of any breach of peace. The apprehension is, therefore, ill-founded.

In this situation, we find the impugned order unsustainable. It is quashed and set aside. We direct the respondents to pass fresh orders in accordance with

law within a period of six weeks from today.

Both the petitions are, therefore, partly allowed and disposed of.

The charges of counsel appointed for the petitioner are fixed at Rs.1,500/- (Rs. One thousand and five hundred) each.

JUDGE

JUDGE

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