

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

CRIMINAL WRIT PETITION NO. 352 OF 2015

(Dilip Domaji Gavai vs. The 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.
JUNE 29, 2015.**

Heard Ms. Bhatia, learned counsel (appointed) for the petitioner and Mrs. Tripathi, learned APP for the respondents.

The application moved by the petitioner on 24.12.2014 for furlough leave has been rejected by an order dated 12.02.2015 on the ground that when he was released on parole on 29.04.1996, he was required to be arrested and brought back on 27.12.2013 and thus he came to prison late by 2782 days.

Ms. Bhatia, learned counsel points out that after this the petitioner has been given parole leave and furlough leave in the years 2010, 2011, 2012 and 2013 and on all occasions, he reported back voluntarily. He was not absconding and hence 1996 instance is no longer survives.

The learned APP is relying upon the impugned order and reply affidavit. She submits that on each occasion, the petitioner reported late and, therefore, bar under Rule 4(4)(10) of the The Prisons (Bombay Furlough and Parole) Rules, 1959, has to

operate.

This Court in Raju @ Rajabhau Bhagwantrao Wankhede vs. D.I.G. Prisons (E)(R) & Anr., reported at 2015 (1) BCR (Cri.) 64, has held that mere late reporting by itself is not sufficient to invoke said provision. It has been held that the reasons for which prisoner could not report back in time must find evaluation. A perusal of impugned order does not show such evaluation. Not only this, after 1996, the petitioner was released at least on six occasions and he voluntarily returned back to prison.

In this situation, we quash and set aside the impugned order. We direct the respondents to pass fresh orders within three weeks from today. Criminal Writ Petition is thus partly allowed and disposed of.

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

JUDGE

JUDGE

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