

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

CRIMINAL WRIT PETITION (CWP) NO. 434 OF 2015

(Vijay Pandurang Thakare vs. Divisional Commissioner, Nagpur Division, 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 Shri Ali, learned counsel for the petitioner and Mrs. Tripathi, learned APP for the respondents.

The petitioner had earlier filed Criminal Writ Petition No. 103 of 2015 and it was allowed on 12.03.2015. He was directed to be released on parole on account of illness of his mother. In obedience to this order, he has been released on 12.05.2015. Before expiry of period of one month, the petitioner sought further extension of one month as his mother was still ailing and needed his presence. By the impugned order dated 03.06.2015, that extension has been rejected.

The petitioner approached this Court on 12.06.2015. While issuing notice, this Court provisionally extended his parole by ad interim orders till 22.06.2015. Those orders continue to operate till date.

Shri Ali, learned counsel, without prejudice

to other contentions submits that now the mother of the petitioner is well and the petitioner is in a position to surrender within a day or two. He, however, submits that the impugned order shows total non application of mind.

The learned APP submits that as the petitioner was released on parole by this Court, the authorities have correctly expressed their inability to grant extension.

A perusal of impugned order dated 03.06.2015 shows only an observation that as the initial order granting parole is passed by this Court, extension of that parole cannot be granted by the authority. We find the reasoning unsustainable. The orders passed by this Court only correct the error committed by the authorities and, therefore, in fact are the orders of said authorities.

In present situation, the order dated 03.06.2015 constitute refusal on the part of the said authority to exercise jurisdiction, available to it, in accordance with law. It is, therefore, quashed and set aside.

In ordinary course, the matter should have been placed back before the authorities for passing further orders, however, here the petitioner has shown his readiness and willingness to surrender as the health of his mother has improved. In this situation, we grant the petitioner time till 09.07.2015 to surrender. His

parole shall be deemed to have been extended till said date. If he does not surrender by said date, he shall be treated as a person absconding, in accordance with law, thereafter.

Criminal Writ Petition is accordingly partly allowed and disposed of. No costs.

JUDGE

JUDGE

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