

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.81 OF 2016

Subhash Hiralal Bhosle

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Jagdish G. Shetty for the Petitioner.

Mr. H.J. Dedia, APP for the Respondent No.1-State.

**CORAM: SMT. V.K. TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ**

DATED: 21st March, 2016

ORAL ORDER: [PER SMT. V.K. TAHILRAMANI, J.]

Heard both sides.

2. Rule. By consent Rule is made returnable forthwith.
3. The Petitioner preferred an application for furlough on 26.12.2013. Said application came to be rejected. Being aggrieved thereby the Petitioner preferred an appeal, which was dismissed. Hence, this petition.
4. The application of the Petitioner for furlough came to be rejected in view of Sub Rule 4, 6 and 10 of Rule 4 of the Furlough and Parole to Prisoner Rules which are stated in the

Maharashtra State Prison Manual Chapter XXXVII. Sub-Rule 6 states that prisoner may not be released on furlough if his conduct is, in the opinion of Superintendent of Prison, not satisfactory enough. The relevant part of Sub Rule 10 states that if a prisoner has defaulted in any way in surrendering at the appropriate time after release on parole and furlough, he may not be released on furlough.

5. It will be necessary to state a few facts. The Petitioner had earlier preferred an application for parole. Said application came to be rejected. Appeal preferred by the Petitioner against the said rejection came to be dismissed. Hence, the Petitioner preferred writ petition No.17 of 2013 before this Court. This Court by order dated 15.3.2013 allowed parole leave to the Petitioner. Accordingly the Petitioner was released on parole. Said leave was extended for a further period of 30 days from 23.5.2013 to 21.6.2013. The Petitioner was supposed to surrender on 22.6.2013. Instead of surrendering though the Petitioner had been categorically told that he will not get further extension yet he preferred another application for extension of parole. Eventually the Petitioner was arrested and brought back by Hinjawadi Police Station on 6.7.2013. Thus, there was over stay on the part of the Petitioner of 14 days.

6. The learned counsel for the Petitioner submitted that the Petitioner preferred an application for extension of parole and the Petitioner was under the impression that his application would be granted, hence, he did not surrender and meanwhile he was arrested and brought back to prison. As far as this contention is concerned it is seen that when the Petitioner preferred first application for extension of parole, he was categorically told that no further extension would be granted. Despite this fact the Petitioner preferred an application for extension of parole. In such circumstances submission of the learned counsel for the Petitioner cannot be considered that the Petitioner was under the impression that his application for extension of parole would be granted.

7. Looking to all these facts the decision of the authorities cannot be faulted. If the Petitioner prefers a fresh application for furlough the same to be decided expeditiously after taking into consideration the recent conduct of the Petitioner in the prison. In this view of the matter, order of rejection needs no interference.

8. Rule is discharged.

(SMT. ANUJA PRABHUDESSAI,J.) (SMT. V.K. TAHILRAMANI,J.)