

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 336 of 2015

Pradeep Oliver D'Mello

.. Petitioner

v/s.

The State of Maharashtra .

..Respondents

Mrs. Nasreen S.K.Ayubi, Advocate appointed for the Petitioner.
Mr.H.J.Dedhia, APP for the Respondent/State.

**CORAM : SMT. V.K.TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : APRIL 04, 2016.**

P.C.

1. Rule. By consent, rule is made returnable forthwith.
2. The grievance of the petitioner is that he preferred an application for furlough. The said application was not decided. The petitioner preferred application for furlough on 6th August, 2013. On 29th August, 2013, the Superintendent, Kolhapur Central Prison, Kolhapur sent a letter to the Superintendent of Police, Thane (Rural) calling upon them to file report in connection with the application for furlough. The said application was forwarded to the Office of

Deputy Inspector General of Prisons, Western Region, Pune on 31st August, 2013. As the office of Deputy Inspector General of Prisons did not receive any report from the Office of Superintendent of Police, Thane (Rural), therefore reminder letter was sent to the Superintendent of Police, Thane (Rural) on 27th November, 2013. Meanwhile, on 9th December, 2013 the petitioner was released on parole. Hence, on 9.12.2013 the petitioner made an application for stay of his furlough leave application dated 6th August, 2013 for a period of nine months. The Office of Deputy Inspector General of Prisons, by letter dated 13.1.2014 informed the petitioner that his request for stay of his furlough leave application dated 6th August, 2013 is accepted.

3. The parole was initially granted to the petitioner for a period of 30 days. The said period was extended upto 10th March, 2013. However, the petitioner did not surrender in time and he surrendered on 21st April, 2014 i.e. after overstay of 42 days.

4. As per the Maharashtra Prison Manual, 1971 Chapter XXXVII Rule 5, Ordinarily furlough should not be granted to a prisoner within a period of six months from the date of his return from parole.

As the petitioner had surrendered after being released on parole on 21st April, 2014, there was no question of granting furlough leave to the petitioner till 21st October, 2014.

5. Meanwhile, the petitioner who was in Kolhapur Central Prison was transferred to Talaja Central Prison, Navi Mumbai, from 20th July, 2014 to 30th September, 2015. This transfer was on account of the fact that one more case was pending against the petitioner. While the petitioner was in Talaja Central Prison, he wrote a letter dated 10th October, 2014 to the Superintendent, Kolhapur Central Prison for releasing him on furlough. The Superintendent, Kolhapur Central Prison informed the applicant that since his previous application dated 6th August, 2013 is pending, his application for furlough dated 10th October, 2014 cannot be considered. Thereafter the petitioner while in Talaja Central Prison sent a letter dated 27th December, 2014 addressed to the Superintendent, Kolhapur Central Prison, Kolhapur, stating that he does not wish to press his earlier application for furlough dated 6th August 2013 and his case be closed. Thereafter, on 28th April, 2015 the petitioner preferred fresh application for furlough leave and the said application was being processed. Meanwhile, on

2nd January, 2016 the petitioner was granted parole leave for a period of 30 days. Thereafter, the parole leave was extended for a period of 30 days and thereafter parole leave was again extended for a period of 30 days. Thus the petitioner had to surrender on 1st April, 2016.

6. The petitioner has surrendered in jail on 1st April, 2016. Now that the petitioner has surrendered on the due date, his application for furlough which was kept in abeyance will now be processed.

7. Looking to the fact that the application of the petitioner for furlough leave will be processed, no case is made out for interference. Rule is discharged.

(ANUJA PRABHUDESSAI, J.)

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