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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1413 OF 2014

Nazar Abbas @ Kaifi Hasan Abbas Sayyed ... Petitioner

vs.

The State of Maharashtra ... Respondent

Mr. Prosper D'souza, Advocate appointed for the petitioner.

Mrs. A.S. Pai, APP for the respondent/State.

**CORAM: MRS. V.K. TAHILRAMANI &
MRS. MRIDULA BHATKAR, JJ.**

JUNE 7 , 2016.

ORAL ORDER (Per V.K. Tahiramani, J.)

Heard both sides. Rule. By consent, rule is made returnable forthwith.

2. The petitioner had preferred an application for furlough on 26th August, 2013. The said application for furlough came to be rejected on 30th November, 2013. Being aggrieved thereby, the petitioner preferred an Appeal, which was dismissed on 15th February, 2014. Hence, this Petition.

3. The Application for furlough came to be rejected on the ground that earlier when the petitioner was released on furlough, he had overstayed.

The record of the petitioner shows that he was released on furlough on 6 occasions. In 2006, when the petitioner was released on furlough, he reported back in time to the prison. In 2007, when the petitioner was released on furlough, there was overstay on his part of 42 days. However, it is seen that the petitioner reported back to the prison himself and it was not a case of being arrested by the police and being brought back to prison. In 2008, when the petitioner was released on furlough, there was delay of one day in reporting back to the prison. In 2009, when the petitioner was released on furlough, he reported back to the prison in time. In 2011, when the petitioner was released on furlough on 19th January, 2011, he reported back to the prison in time. In 2012, when the petitioner was released on furlough, he reported back to the prison after 2 days, i.e., there was overstay of two days on the part of the petitioner. It is seen that out of 6 occasions, on 3 occasions, the petitioner reported back in time and on the other 3 occasions, though there was delay on the part of the petitioner in reporting back to the prison, however, the petitioner has surrendered back to the prison on his own and it was not a case of being arrested by the police and being brought back to the prison. It is only in the year 2007 that there was delay of 42 days on the part of the petitioner in reporting back to the prison. Thereafter it is seen that the petitioner has reported back to the

prison in time or there was delay of just one or two days on his part in reporting back to the prison.

4. Looking to the fact that the petitioner had not reported back in time and the fact that the petitioner was detained under M.P.D. Act, the application of the petitioner for furlough came to be rejected. However, it is seen that the period of detention is over. Moreover, the record of the petitioner of the last two years shows that the petitioner has reported back in time or there was delay of just one or two days on his part in reporting back to the prison. In this view of the matter, we are inclined to grant furlough to the petitioner. The petitioner to be released on furlough on usual terms and conditions as set out by the jail authorities.

5. Rule is made absolute in above terms.

6. Office to communicate this order to the petitioner, who is in Nashik Road Central Prison. The fees to be paid to the appointed counsel are quantified at Rs.2,000/-.

(MRS. MRIDULA BHATKAR,J.) (MRS. V.K. TAHILRAMANI, J.)