

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1686 OF 2016

Shri Vijay Baburao Chougule	... Petitioner
Vs.	
The State of Maharashtra & anr.	... Respondents

WITH
CRIMINAL APPLICATION NO.268 OF 2016
IN
CRIMINAL WRIT PETITION NO.1686 OF 2016

Shri Viraj Udaty Potadar	... Intervener
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IN THE MATTER BETWEEN

Shri Vijay Baburao Chougule	... Petitioner
Vs.	
The State of Maharashtra & anr.	... Respondents

Mr.Wasim N. Samlewale for the Petitioner
Mrs.U.V. Kejriwal, APP, for Respondent State
Mr.Datta Mane, for Intervener

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

DATE: **JUNE 27, 2016**

P.C.:

1. Heard learned Counsel for the petitioner and the learned APP for the State. Also heard the learned Counsel for the Intervener.
2. Rule. By consent, Rule is made returnable forthwith.
3. The case of the petitioner is that he was released on parole on 7.5.2008. There was overstay on his part of 111 days, hence, prison

punishment was imposed on him of cutting of remission of 5 days for each day's overstay. Thereafter, the petitioner was released on parole on 2.4.2011. There was overstay of 144 days. Hence, remission of 3 years was deducted. The prayer of the petitioner is that both these punishments of cutting of remission be set aside.

4. It is seen that the petitioner was first released on 7.5.2008. He was granted parole for 30 days. Thus, after a month, the petitioner had to report back to the prison. However, the petitioner did not report back to the prison. The petitioner reported back to the prison after 111 days of overstay. During this period, the petitioner committed offence under sections 307, 394, 363 r/w 34 of the Indian Penal Code. The said case is registered vide FIR No.180 of 2008 at Shahupuri police station, Kolhapur. Thus, it is seen that the petitioner has misused the facility granted to him of parole. Thereafter, the petitioner was released on parole on 1.4.2011 to 1.5.2011. The petitioner did not report back to the prison on the due date i.e., on 1.5.2011 and the petitioner absconded. He had to be ultimately traced and arrested by the police and brought back to the prison. During this period that the petitioner was out, the petitioner committed an offence under sections 364A, 365, 385, 395 of the Indian Penal Code. The said case is registered vide FIR No.183 of 2011 with Juna Rajwada police station, Kolhapur. Thus, it is seen that on this occasion also, when the petitioner was released on parole, he misused the liberty granted to him.

On the second occasion, the petitioner did not surrender back to the prison but he absconded and he had to be arrested by the police and brought back to the prison. Thereafter, it is seen that the petitioner was released on parole on 12.5.2014 to 12.6.2014. On this occasion also, the petitioner did not report back to the prison in time and there was overstay on his part of 504 days when the petitioner was released on parole on 12.5.2014. During the period when he was out, the petitioner committed another offence. The said offence was under sections 384, 385, 387 of Indian Penal Code. The case is registered at FIR No.164 of 2014 at Karveer police station, Kolhapur. Thus, it is seen that the petitioner on the first occasion, overstayed by 111 days. Thereafter by 144 days and thereafter by 504 days. It is seen that the petitioner not only overstayed his parole period, but while he was on parole, he has committed offences on all these three occasions. In this view of the matter, no sympathy can be shown to the petitioner. No case is made out for setting aside the prison punishment.

5. Hence, Rule is discharged.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)