

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2356 OF 2015**

Ramavatar Pandurang Koli .. Petitioner

Vs.

The State of Maharashtra .. Respondent

....
Mr. Sachin Chandan Advocate appointed for Petitioner
Mr. A.S. Shitole A.P.P. for the State
....

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

DATED : APRIL 20, 2016

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

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

2 The petitioner preferred an application on 20.10.2014 for parole on the ground of illness of his son. The said application came to be granted and the petitioner was released from prison on 2.2.2015. Parole was granted for a period of 30 days and the petitioner had to surrender on 5.3.2015. However, as the son of the petitioner continued to be unwell,

he was taken to the Doctor and the Medical Officer at Civil Hospital Jalgaon, issued medical certificate dated 21.2.2015 stating therein that the son of the petitioner was suffering from Asthma with some other medical problems, hence, the petitioner preferred an application for extension of parole on 23.2.2015. The said application came to be rejected on 11.3.2015. The said application came to be rejected on the ground that it was not made within 15 days of release of the petitioner on parole. Being aggrieved by this order of rejection, the petitioner has approached this Court.

3 It is seen that after the petitioner was released on parole, as the son of the petitioner was unwell he was taken to the doctor. The doctor issued a certificate dated 21.2.2015 stating the son was suffering from a bout of asthma & CCF i.e. Congestive Cardiac Failure. In view of these facts, the petitioner preferred an application for extension of parole on 23.2.2015. As per Rules, the petitioner ought to have preferred an application for extension of parole within 15 days from his release on parole as per the Notification dated 9.12.2013. However, the petitioner preferred an application for extension

of parole on 23.2.2015. Thus, there was delay of six days in filing application for extension of parole. However, it is seen that this delay has been caused because on 21.2.2015, the son of the petitioner was suffering from Asthma with CCF. Hence, the petitioner could not have preferred application for extension of parole prior to 21.2.2015. On seeing the health of his son who was not getting better, the petitioner preferred an application on 23.2.2015 for extension of parole. It is seen that application for extension of parole was rejected on 11.3.2015. As soon as the petitioner was communicated this order of rejection, he immediately surrendered back to prison on 18.3.2015. Thus, there was overstay on the part of the petitioner of 13 days for which it is proposed to punish the petitioner.

4 Looking to the fact that as soon as the petitioner was informed about the order of rejection of application for extension of parole, he immediately surrendered back to the prison and looking to the fact that overstay was only of 13 days and the other facts and circumstances of this case, we are of the opinion that extension of parole ought to be granted to the

petitioner. Accordingly, the order of rejection of application for extension of parole is set aside. The application of the petitioner for extension of parole by 13 days, is allowed.

5 Rule is made absolute in above terms.

6 Office to communicate this order to the petitioner who is in Nasik Road Central Prison.

[SMT. ANUJA PRABHUDESSAI, J.]

[SMT. V.K.TAHILRAMANI,J.]

Kandarkar