

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

CRIMINAL WRIT PETITION NO.2655 OF 2015

Nitin Pradeep Khairnar

...Petitioner

Versus

The State of Maharashtra

...Respondent

...

Ms Rohini Dandekar, Advocate appointed for the Petitioner.

Mr. A.S. Shitole, APP for the Respondent -State.

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

DATED: 8th March, 2016

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

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

2. The Petitioner preferred an application for furlough. The said application came to be rejected. Being aggrieved thereby the Petitioner preferred an appeal. Said appeal came to be dismissed, hence, this petition.

3. The application for furlough of the Petitioner came to be rejected on two grounds. First ground is on account of the adverse police report. The police report states that if the Petitioner is released, there is danger to the complainant and witnesses and the

second ground is that when the Petitioner was released on parole on 22.2.2014 the Petitioner reported back to the prison after 60 days of over stay, hence if the Petitioner is granted furlough he will not report back to prison in time and may abscond.

4. As far as the first ground is concerned, it is an admitted fact that the Petitioner was on bail from 2009 to 2012. In that period no complaint was made either by the complainant or any of the witnesses about any threat to them by the Petitioner or any one on behalf of the Petitioner. Thereafter the Petitioner was on parole from 22.2.2014 to 22.3.2014. In this period also there was no complaint either by the complainant or any of the witnesses about any threat being given by the Petitioner or any one on his behalf. The Petitioner overstayed parole period by 60 days. In this period also there was no complaint by the complainant or any of the witnesses in relation to the Petitioner.

5. In view of the above, we find that there was no objective material before the concerned authority to come to the conclusion that if the Petitioner is released on furlough there will be danger to the complainant or any of the witnesses. Thus, we find no merit in this ground.

6. Second ground is that when the Petitioner was released on parole, he overstayed by a period of 60 days. As far as this

ground is concerned it is seen that when the Petitioner was released on parole for 30 days on 22.2.2014 before the parole period was over he preferred an application for extension of parole. The Petitioner was not informed about any decision in relation to his application for extension of parole. Hence, the Petitioner after 60 days i.e. total period of 90 days surrendered back to prison because the Petitioner knew that parole can only be granted upto a maximum of 90 days. It is only after the Petitioner surrendered back to the prison that he was communicated after many days that his application for extension for parole was rejected. It was in this circumstance that there was over stay on the part of the Petitioner. Had the Petitioner been immediately informed that his application for extension of parole is rejected, he would have immediately reported back to prison. As the Petitioner was not informed about any decision on his application for extension, the Petitioner surrendered back to prison on the 90th day. Moreover, it is seen that the Petitioner was not arrested and brought back to the prison but he surrendered on his own to the prison. In this view of the matter we find no merit in both the grounds on which the application of the Petitioner for furlough came to be rejected.

7. In view of the above, order of rejection of furlough and order dismissing the appeal of the Petitioner are set aside. The Petitioner be released on furlough for a period of 14 days on the

usual terms and conditions being set out by the concerned authority.

8 Rule is made absolute in above terms.

9. Fees be paid to the appointed Advocate as per rules.
Office to communicate this order to the Petitioner, who is in Nashik
Road Central Prison, Nashik.

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