

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2933 OF 2016

Abhijeet @ Chochya Ashok Sangare ... Petitioner
Vs.
The State of Maharashtra ... Respondent

Ms. Kirti Godbole i/b. Mrs. Indrayani Koparkar, Advocate for the petitioner.
Mr. Arfan Sait, APP for the respondent/State.

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

DATE: **OCTOBER 20, 2016**

ORAL JUDGEMENT: (Per Smt. V.K. Tahiramani, J.)

1. Heard both sides.
2. Rule. By consent, Rule is made returnable forthwith.
3. The petitioner preferred an application for furlough on 25th February, 2015. The said application came to be granted and the petitioner was released on furlough on 2nd July, 2015 for a period of 14 days. The petitioner had to surrender on 17th July, 2015. Meanwhile, on 4th July, 2015, the petitioner preferred an application for extension of furlough by a further period of 14 days. The said application is admittedly made in time. The said application came to be rejected on 21st July, 2015. The petitioner was communicated the order of rejection on 21st July, 2015 and the petitioner surrendered on 22nd July, 2015. As the application for extension of furlough was not granted, it was held that there was overstay

on the part of the petitioner by 5 days. Hence, his remission was cut by one day for each day of overstay, i.e., 5 days remission was cut. In addition, the security deposit of Rs.25,000/-, which was deposited by the petitioner, was forfeited. Being aggrieved by the forfeiture of security deposit of Rs.25,000/- and cutting of remission of total 5 days, this Petition has been preferred.

2. The application of the petitioner for extension of furlough came to be rejected on the ground that police report was adverse and father of the petitioner was available in the house to take care of the mother of the petitioner. The petitioner preferred an application for extension of furlough on 4th July, 2015, as his mother was suffering from hypertension with severe giddiness. The petitioner has annexed the medical certificates dated 4th July, 2015 and 19th July, 2015, which show that his mother was suffering from hypertension with severe giddiness from 4th July, 2015 and she was advised to take rest. The order of rejection shows that the genuineness of the medical certificates is not doubted. In fact the statement of the doctor was also recorded, which shows that if she does not take treatment and does not take rest, she may also get a heart attack.

3. As far as the issue of father of the petitioner being available in the home to take care of the mother of the petitioner is concerned, the father

was of advanced age and hence it was not possible for him to run around to the doctors, hospitals etc. and provide necessary treatment and to look after the mother of the petitioner.

4. It is seen that the police report shows that the medical certificates are genuine. In addition, the police report shows that the petitioner had reported twice to the police station everyday and during the period that the petitioner was on furlough, no adverse act was done by the petitioner. Moreover, it is seen that the order of rejection was communicated to the petitioner on 21st July, 2015 and on the very next day he surrendered back to the prison. Looking to the peculiar facts of this case, we are of the opinion that the order of forfeiture of security deposit and cutting of remission ought to be set aside. The security deposit of Rs. 25,000/- which has been forfeited be returned back to the petitioner. So also the order of cutting of remission of one day for each day of overstay is set aside. However, the petitioner be issued a warning in relation to his overstay.

5. Rule is made absolute in above terms.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)