

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3809 OF 2015**

Gulamali Murad Ali Makrani .. Petitioner

Vs.

The State of Maharashtra .. Respondent

....
Ms. Rohini Dandekar Advocate appointed for Petitioner
Mr. H.J. Dedia A.P.P. for the State
....

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

DATED : AUGUST 03, 2016

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

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

2 The petitioner preferred an application for parole on the ground of illness of his wife. The said application came to be granted and the petitioner was released on parole for a period of 30 days from 11.2.2015 to 13.3.2015. Thereafter, the petitioner preferred an application for extension of parole. Being first application for extension of parole, the said

application was granted and the parole period was extended from 14.3.2015 to 12.4.2015. Thereafter the petitioner preferred second application for extension of parole for a period of 30 days. The said application is dated 31.3.2015. The said application came to be rejected by order dated 13.4.2015. The petitioner surrendered on his own to the prison on 13.5.2015. Thus, as the second application for extension of parole was not granted, the period of 31 days was held to be overstay on the part of the petitioner and the prison punishment was imposed by cutting of remission of 4 days for each day of overstay. Thus, for 31 days of overstay, the remission was cut for a period of 124 days i.e. in the ratio of 1:4. The prayer of the petitioner is that the prison punishment imposed on the ground of the overstay, be quashed.

3 The reason for the petitioner seeking second extension of parole was that his wife had "Bronchial Asthma" and his two daughters were getting married on 29.4.2015. The second application for extension of parole was rejected on the ground that the application was preferred late. The application should have been preferred by 28.3.2015, however, the

application for second extension of parole was preferred on 31.3.2015. It is on this sole ground that the application of the petitioner for second extension of parole, came to be rejected.

4 As far as the illness of his wife is concerned, the petitioner has annexed medical certificate which shows that the wife of the petitioner was suffering from "Bronchial Asthma". The genuineness of this certificate is not doubted by the prosecution. The additional reason for the petitioner to seek second extension of parole is that both his daughters were getting married on 29.4.2015. The fact that daughters of the petitioner were getting married on 29.4.2015 is also not controverted by the prosecution. Thus, it is seen that the reason for seeking second extension of parole appears to be genuine. In this view of the matter, on humanitarian ground, we are inclined to extend the period of parole. However, it is to be noted that parole can be granted along with extension for a maximum period of 90 days, however, the petitioner came back to the prison after 91 days. Thus, as far as period of 30 days is concerned, we grant extension of parole, however, for one day, it will be deemed to be overstay on the part of the

petitioner and the prison punishment imposed on account of one day overstay is not interfered with.

5 In view of the above, we grant extension of 30 days of parole to the petitioner. Any prison punishment imposed on account of the said overstay, is set aside.

6 Rule made absolute in above terms.

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

8 Legal fees to be paid to the appointed advocate is quantified at Rs.2500/-.

[MRS. MRIDULA BHATKAR, J.]

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

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