

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

CRI. W.P.NO. 4400 OF 2015

Shivaji Bhikaji Gawde

.. Petitioner

Vs.

The State of Maharashtra

.. Respondent

....
Mr. Prosper D'Souza Advocate appointed for the Petitioner
Mrs. U.V.Kejriwal 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 was released on furlough during the period from 26.10.2014 to 8.11.2014. The petitioner sought extension of furlough from 9.11.2014 to 23.11.2014. The said application for extension of furlough came to be rejected by order dated 13.5.2015 which is under challenge. The application was rejected in view of Rule 13 of The Prisons

(Bombay Furlough and Parole) Rules, 1959 as the petitioner was granted extension of furlough from 31.12.2013 to 13.1.2014, hence, it was held that as the extension was granted in the year 2014, another extension could not have been granted in view of the Rule 13. Rule 13 states as under:

“13. Extension of the period of furlough-

Notwithstanding anything contained in the foregoing rules, the Sanctioning Authority may, on the application of a prisoner or otherwise, by an order in writing extend the period of furlough. *[The Sanctioning authority may determine the extension of furlough leave shall be granted for only 14 days only once in a calendar year and no further extension shall be granted to prisoner on same conditions.]”

3 The case of the petitioner is that he preferred an application for furlough in the year 2013 and the said application came to be granted and he was released for the period from 17.12.2013 to 30.12.2013. He preferred an application for extension of furlough in December, 2013. The said application was granted and furlough period was extended from 31.12.2013 to 13.1.2014. Thus the contention of the petitioner is that this extension of furlough ought to be counted

for the year 2013 as he had made an application for extension of furlough in the year 2013 and the period of extension of furlough ought to be counted for the year 2013 though it had spilled over to the year 2014.

4 Rule 13 clearly states that extension of furlough can be granted only once in a calendar year. The record of the petitioner shows that he had earlier preferred an application for furlough. The said application came to be granted and the petitioner was released on furlough during the period from 12.7.2013 to 25.7.2013. Thereafter the said period of furlough was extended from 26.7.2013 to 8.8.2013. Thus, it is seen that in the year 2013 the furlough period was already extended from 26.7.2013 to 8.8.2013. Thereafter the petitioner preferred another application for furlough and the petitioner was released on furlough from 17.12.2013 to 30.12.2013. The petitioner preferred an application for extension of furlough which was granted and the furlough period was extended from 31.12.2013 to 13.1.2014. This period of extension was held to be of the year 2014, hence, extension of furlough was granted to the petitioner. If the period of extension of furlough was

held to be in the year 2013, the petitioner would not have been granted extension of furlough because he was already granted extension of furlough in the year 2013 from 26.7.2013 to 8.8.2013.

5 Thus, it is seen that the petitioner was granted extension of furlough in the year 2013 and 2014 i.e. from 26.7.2013 to 8.8.2013 and 31.12.2013 to 13.1.2014. Thereafter the petitioner preferred an application for furlough on 2.6.2014 which was granted by order dated 13.10.2014 and the petitioner was released on furlough from 26.10.2014 to 8.11.2014. The petitioner sought extension of furlough from 9.11.2014 to 23.11.2014. However, as stated earlier, as the petitioner was already granted extension of furlough in the year 2013 as well as in the year 2014, in view of the Rule 13, in the year 2014 it was not possible to grant second extension of furlough. This has been clearly stated in the order dated 13.5.2015. The order clearly states that the petitioner was granted extension of furlough in the year 2013 and in the year 2014 for the period stated above. Thus, it was not possible to grant second extension of furlough in the year 2014. The

petitioner has relied on a decision of this Court dated 2.7.2012 in Criminal Writ Petition No. 660 of 2012 in the case of ***Prabhakar Raghu Shetty Vs. State of Maharashtra and others***. However, on going through the said decision, we find that the facts therein and the facts in the present case, are entirely different. Hence, this decision would not be applicable to the case of the petitioner.

6 In view of the above facts, no interference is called for, hence, Rule is discharged.

7 Office to communicate this order to the petitioner who is in Kolhapur 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.]