IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3876 OF 2016

Mohd. Parvez Zulfikar Qureshi]
C-9031, Nasik Road Central Prison.].. Petitioner

Vs.

The State of Maharashtra]..Respondent

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Ms. Rohini Dandekar Advocate appointed for Petitioner
Mr. Arfan Sait A.P.P. for the State

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CORAM : SMT.V.K.TAHILRAMANI AND A.M.BADAR, JJ.

DATED : DECEMBER 06, 2016

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

1 Heard both sides.

2 The petitioner preferred an application for furlough. The said application was granted by order dated 21.5.2015. Pursuant to the said order, the petitioner was released on furlough on 22.7.2015. The petitioner had to surrender on 6.8.2015, however, in the meantime, on 27.7.2015, the petitioner preferred an application for extension of furlough.

The said application was rejected on 3.8.2015. As stated earlier, the petitioner had to surrender on 6.8.2015, however, the petitioner surrendered on 9.8.2015. Thus, there was overstay of three days on the part of the petitioner. On account of this overstay, his remission was cut in the ratio of 5 days for each day of overstay i.e. 15 days of remission was cut. Being aggrieved by the prison punishment imposed on him, the petitioner has preferred this petition.

3 The petitioner has annexed the medical certificate of his younger sister Shaheen which shows that she had severe lumbar spondylosis and she was having severe neck pain and vertigo and she was advised MRI of cervical spine. The said certificate is dated 25.7.2015. The genuineness of this certificate is not doubted by the prosecution. Moreover, the jail record of the petitioner shows that on six occasions, he was released on furlough and on one occasion he was released on parole and on all these occasions, he reported back in time. He was released on furlough on 28.2.2009, 18.9.2009, 5.11.2010, 29.8.2011, 14.8.2012 and 28.7.2014. On these occasions, he reported back in time. The petitioner was

released on furlough on 13.12.2014, however, he was one day late in reporting back to the prison, but it is noticed that he reported back to the prison on his own and it is not the case of the police arresting him and bringing him back to the prison. On 19.2.2010 the petitioner was released on parole and he reported back in time.

4 The learned A.P.P. submitted that on 13.12.2014 the petitioner was released on furlough. He had to report back on 27.12.2014, however, the petitioner preferred an application for extension of furlough. The said extension was granted and the petitioner had to surrender on 11.1.2015. The learned A.P.P. submitted that Notification dated 2.12.2003 states that extension for furlough leave can only be granted once in a calender year. Thus, the learned A.P.P. submitted that as in January 2015, extension of furlough was already granted to the petitioner, again in the same calender year, he cannot be granted extension of furlough. In this view of the matter, we cannot find fault with the authorities rejecting the application dated 27.7.2015 for extension of furlough. However, looking to the fact that genuineness of the medical certificate relied by

the petitioner for seeking furlough, is not doubted and the earlier record of the petitioner shows that he has reported back to the prison in time, we are of the opinion that the punishment of cutting of remission of five days for each day of overstay should be reduced. Hence, we reduce the said punishment and we impose punishment of cutting of remission of one day for each day of overstay. If the surety amount has been forfeited, same be returned back to the petitioner. Petition is partly allowed. Rule is made absolute accordingly.

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

[A.M.BADAR, J.] **[SMT. V.K.TAHILRAMANI,J.]**

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