

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.39 OF 2015

Arun Ramchandra Belurkar

..vs..

The State of Mah., thr its Secretary, Home Department, Mantralaya, Mumbai and anr

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Mrs. S.P. Kulkarni, counsel for the petitioner (appointed).
Shri V.A. Thakre, Addl.P.P. for the State.

**CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.**

DATED : JANUARY 5, 2016.

Heard.

The petitioner, who is in open prison, was released on 31.1.2003 for a period of 7 days on account of death of his mother. He was to report back on 7.2.2003, but actually surrendered after expiry of period of 34 days i.e. belatedly.

For this late reporting, remission cut of 5 days for each day of absence has been inflicted upon him. That punishment is questioned.

Learned counsel appointed for the petitioner Mrs. S.P. Kulkarni submits that, in this situation,

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punishment is excessive. Learned Addl.P.P. for the State Shri V.A. Thakre submits that the petitioner did not surrender voluntarily but was required to be arrested and brought back.

We find that in reply-affidavit the facts are not clearly stated. If the petitioner was released on death parole for 7 days 31.1.2003, he could have reported back by 7.2.2003 or 8.2.2003. The communication dated 23.11.2015 sent by the Superintendent of Morshi Open Prison, District Amravati to the office of this Court shows that he was arrested and brought back on 4.3.2003. Considering the fact that February, 2003 would be the month with 28 days, his reporting back on 4.3.2003 cannot be late by 34 days. We, therefore, find the material on record insufficient. The impugned order also shows non-application of mind. It is, therefore, quashed and set aside.

In this situation, we accept the fact that he was arrested and brought back on 4.3.2003 i.e. late by about 26 days. The prisoner has produced a certificate issued by the competent doctor about illness of his father. He has stated that because of illness of his father, he was prevented from reporting back on due date. The interest of justice can be met with by substituting punishment. We, accordingly,

direct 26 days cut in his remission i.e. one day of remission cut for each day of late reporting.

The criminal writ petition is thus partly allowed and disposed of.

The charges of learned counsel appointed for the petitioner are fixed at Rs.1,500/-.

JUDGE

JUDGE

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