

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

CRIMINAL WRIT PETITION NO.338 OF 2016

Nitin S/o Nandkishor Gudadhe

..vs..

The D.I.G. Prison (E) (R), Nagpur, Tahsil and District Nagpur and ors

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

Court's or Judge's Order

Shri N.R. Mankar, counsel for the petitioner (appointed).
Mrs. Nandita Tripathi, Addl.P.P. for the respondents/State.

**CORAM : B.P. DHARMADHIKARI &
A.S. CHANDURKAR, JJ.**

DATED : SEPTEMBER 22, 2016.

Heard learned counsel Shri N.R. Mankar appointed for the petitioner and learned Additional Public Prosecutor Mrs. Nandita Tripathi for respondent Nos.1,2, and 3/State. Perused reply.

Furlough leave sought by the petitioner has been rejected on the ground of adverse police report and the fact that when he was released earlier on parole leave, he has surrendered late by 27 days and an offence under Section 224 of the Indian Penal Code is registered against him.

After hearing respective learned counsel for the parties, we find that report by the office of the

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police commissioner, Amravati dated 4.8.2015 is not adverse. On the contrary, the conduct of the prisoner is reported to be satisfactory while on leave and local residents have no complaints against him. Report further mentions that, on 4.1.2015, the Court ordered his release on personal bond and the petitioner has surrendered back voluntarily. This release on 4.1.2015 or his surrender, thereafter, does not figure in reply-affidavit.

Reply-affidavit shows that the petitioner was, on 7.11.2014, released on parole and has reported back on 4.1.2015 voluntarily. That reporting is stated to be late by 27 days. For such late reporting, an offence under Section 224 of the Indian Penal Code is also registered.

The police report cannot be read as an adverse report and hence impugned order is unsustainable.

In this situation, we quash and set aside the impugned order and direct release of the petitioner on furlough after obtaining necessary bonds, undertakings, and surety for him.

The writ petition is thus partly allowed

and disposed of.

Charges of learned counsel Shri N.R. Mankar appointed for the petitioner are quantified at Rs.1500/- (rupees fifteen hundred only).

JUDGE

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 23/09/2016

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