

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

CRIMINAL WRIT PETITION NO.487 OF 2016

Satish S/o Ramchandra Nirapure

..vs..

State of Maharashtra, through Divisional Commissioner Nagpur and anr

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

Court's or Judge's Order

Ms Radha Mishra, counsel for the petitioner (appointed).
Shri N.R. Rode, Addl.P.P. for the respondents.

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

DATED : AUGUST 23, 2016.

Heard learned counsel for the parties.

Because of ill-health of the petitioner's mother, the petitioner was released on furlough for a period of thirty days on 30.4.2016. That period was to expire on 30.5.2016. He applied for extension and extension has been allowed. The extended parole was to continue till 30.6.2016.

Thereafter, before expiry of this extended period, along with the doctor's certificates, the petitioner applied again and sought further extension of thirty days. The certificate of the doctor enclosed, shows the necessity of treatment up to 13.7.2016 for "Hypertension Stage-II" with "Coronary Artery Disease".

Learned counsel Ms Radha Mishra appointed for the petitioner states that when the

petition was listed before this Court on 28.6.2016, that is before 30.6.2016, this Court orally asked the petitioner to show his *bona fides* and to surrender. Accordingly, without prejudice to the pending Court proceedings, the petitioner has surrendered.

She, therefore, submits that in view of illness of the petitioner's mother and the fact that there is no other member in the family to look after her as also location of dispensary at a distance of about sixty kilometers from the residence, the application for second extension may be appropriately considered.

Learned Additional Public Prosecutor Shri N.R. Rode for the respondents points out that on each occasion, earlier whenever the petitioner was released, he has reported late. As such, this is not a fit case to show any leniency.

The previous conduct does not remain relevant because after recognizing the seriousness of illness of the mother of the petitioner, the petitioner was released by the respondents on 30.6.2016. Not only this, the respondents granted him one extension.

In this situation, when second extension was asked for, it appears that only because oral direction of this Court the petitioner was constrained to report to Jail. Had he not reported back, his second application for extension of parole could have been

considered as per law.

Now, he has reported back. His earlier parole has come to an end and if he is to be given fresh parole, his request cannot be considered at this stage for a period of six months more from 30.6.2016.

In this situation, if the mother of the petitioner is still in need of medical treatment, we grant the petitioner leave to move appropriate application along with suitable documents in support of illness. If such application is moved, within a period of two weeks from today, the respondents shall consider it independently within a period of next two weeks. The bar of six months provided in Rule 5 of The Prisons (Bombay Furlough and Parole) Rules, 1959 shall not come in way of this exercise as the petitioner has surrendered because of oral directions of this Court.

Thus, the criminal petition is partly allowed and disposed of.

The charges of learned counsel Ms Radha Mishra appointed for the petitioner are fixed at Rs.1,500/- (Rupee 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 :- 23/08/2016

...../-