

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

CRIMINAL WRIT PETITION NO. 605/2016.

Manik Bapurao Shejal (In Jail)

-VERSUS-

The State of Maharashtra and another

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

Court's or Judge's Orders

CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.

DATE : DECEMBER 02, 2016.

Heard Shri N.R. Mankar, learned Counsel (appointed) for the petitioner and Shri M.J. Khan, learned A.P.P. for respondents. Perused records.

2. Petitioner, a HIV patient was released on furlough leave on 25.05.2015 for two weeks. He did not report back on 09.06.2015, and hence a show cause notice was served on 17.06.2015. As there was no response, on 10.07.2015 at Police Station, Morshi an offence under Section 224 of Indian Penal Code came to be registered vide Crime No. 3096/2015. After this he reported back on 07.08.2015 i.e. late by 59 days.

3. A show cause notice was then served upon him on 08.08.2015, and after considering his reply, remission cut of total 295 days i.e. 5 days for each day of late surrender, has been ordered.

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4. Shri Mankar, learned counsel submits that the petitioner, an HIV patient attempted to obtain treatment for his ailment and because of his ill health could not report back in time.

5. Shri Khan, learned A.P.P. submits that no papers of any treatment taken when petitioner was out of prison, are produced. He further adds that if petitioner needs treatment and was facing financial problems, he ought to have reported back to prison so that he could have been treated by the Government.

6. We find substance in the contentions of learned A.P.P. However, considering the fact that the petitioner is an HIV patient, in this situation, as he has reported back voluntarily, we bring down the punishment to 177 days of remission cut i.e. 3 days for each day of belated surrender.

7. Accordingly, the impugned order is modified to that extent. Writ Petition is, thus, partly allowed and disposed of. No costs.

8. Fees payable to the learned counsel appointed for the petitioner is quantified at Rs. 1500/-.

JUDGE

JUDGE

Rgd.