

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 780 OF 2017

Harvindarpal @ Deelip Gurumitsingh
Convict No. : C-174, Age : Major,
Vasapur Open District Prison

..PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary,
Home Department, Mantralaya,
Mumbai - 32.
2. The Inspector General of Prisons
Maharashtra State, Pune-1.
3. The Dy. Inspector General
of Prisons
(Central Region), Aurangabad,
M.H.
4. The Superintendent,
Central Prison, Nashik,
Dist. Nashik.

..RESPONDENTS

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Mr. A.B. Jagtap, Advocate for petitioner (appointed)
Mrs. P.V. Diggikar, APP for Respondent/State

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**CORAM: S.S.SHINDE &
MANGESH S. PATIL, JJ.**

**RESERVED ON : 09.10.2017
PRONOUNCED ON : 30.10.2017**

JUDGMENT : (Per S.S.Shinde, J.):

Rule. Rule made returnable forthwith

and heard finally with the consent of the learned counsel appearing for the parties.

2. This Petition takes exception to the order dated 21st March, 2014 passed by Respondent No.3, thereby rejecting the application of the petitioner for extension of furlough leave for a period of 14 days and further imposition of punishment of curtailing the remission to the extent of 70 days.

3. The background facts for filing the present Petition, as disclosed in the memo of Petition, in brief are as under :-

It is the case of the petitioner that, the petitioner is a convict for the offence punishable under section 302 of the Indian Penal Code and is undergoing sentence of imprisonment for life. It is the case of the petitioner that, the petitioner made an application for furlough leave to the Deputy

Inspector General, Central Region, Aurangabad and the said furlough leave was sanctioned by Respondent No.3 for 14 days by order dated 15th February, 2014, and on the basis of the said order, the present petitioner came to be released on furlough leave from Visapur Open District Prison on 3rd March, 2014 for a period of 14 days. It is the case of the petitioner that, when he was released on furlough leave, he was suffering from piles and due to said sickness, he was advised to take complete bed rest for one month. As the period of furlough leave was coming to an end, the petitioner filed an application on 8th March, 2014 for extension of furlough leave on the medical grounds, but no decision was communicated to him, therefore, the petitioner surrendered back to the Prison Authority on 1st April, 2014. At that time, the Prison Authorities informed the petitioner that, his application for

extension of furlough leave has been rejected.

4. It is the case of the petitioner that, thereafter, the petitioner received show-cause notice on 2nd April, 2014, stating that, there was 14 days delay on the part of the petitioner in respect of reporting back to the prison and therefore, asking the cause to the petitioner, why his remissions should not be deducted. Thereafter, on the basis of the said show-cause notice and order passed by Respondent No.3 his 70 days remissions were curtailed. Thereafter, the said order passed by Respondent No.3 was forwarded to the District Judge for judicial appraisal and the same was approved by the learned District Judge-5 and Additional Sessions Judge, Nashik. Hence this Petition.

5. The learned counsel appearing for

the petitioner submits that, the punishment which has been imposed by the Respondent Authorities curtailing the remissions of the petitioner is very harsh and is without considering the genuine reason of medical treatment of petitioner. Therefore, the learned counsel appearing for the petitioner, relying upon the grounds taken in the Petition and annexures thereto, submits that, the Petition deserves to be allowed.

6. On the other hand, the learned A.P.P. appearing for the Respondent - State, relying upon the affidavit in reply filed by the Respondent and the reasons assigned by the Respondent Authority in the impugned order, submits that, the petitioner had accepted all the terms and conditions laid down in the order of furlough leave and the petitioner has intentionally breached the conditions laid down in the said order and

hence, the Respondent Authorities have rightly curtailed the remissions of the petitioner. Therefore, the learned A.P.P. submits that, the Petition deserves to be rejected.

7. We have given careful considerations to the submissions advanced by the learned counsel appearing for the petitioner and the learned A.P.P. appearing for the respondent - State. With their able assistance, we have perused the grounds taken in the Petition and the averments made in the affidavit in reply filed by the Respondent.

8. It is the contention of the learned counsel appearing for the petitioner that, the petitioner attended the Police Station when he was released on furlough, however, it is wrongly mentioned in the impugned order that, during the period when he was released

on furlough he did not attend the Police Station. Therefore, the said reason is contrary to the record.

9. Second ground taken by the petitioner is that, he was suffering from piles and due to said sickness, he was advised to take complete bed rest for one month. So far the said ground is concerned, there are Medical Officers attached to the Jail, and therefore, keeping in view the ailment of the petitioner, in our prima facie opinion, this ground also cannot be accepted.

10. Third ground taken by the petitioner is that, though he had applied for extension of furlough, the decision was not immediately communicated. Infact on completion of period for which furlough was granted in favour of the petitioner, he ought to have reported back to the Jail. It appears that, the

petitioner when he was released on earlier occasions on furlough did not report back within time and overstayed. Therefore, it is not the case that, this was the first instance for petitioner to overstay, after he was granted furlough. As a result of overstay, the Respondents by invoking the provisions of Rule 10(5) of the Prisons (Bombay Furlough and Parole) Rules, 1959 deducted remissions of 70 days for his overstay of 14 days. There was approval by the Deputy Inspector General (Prisons), Central Region, Aurangabad to the order of deducting the remissions of 70 days and thereafter, the said deduction/punishment came to be judicially appraised by the District and Sessions Judge, Nashik.

11. In our opinion, the order passed by Respondent No.3 on 21st March, 2014 is in consonance and keeping in view the record of

the petitioner and relevant Rules. Therefore, no case is made out for causing interference in the impugned order. Hence the application stands rejected. Rule stands discharged accordingly.

12. We appreciate the sincere efforts taken by learned counsel Mr. A.B. Jagtap in promptly preparing the memo of the Petition, filing the same within time and extending able assistance during the course of hearing of the Petition so as to reach to the correct conclusion. Since Mr. A.B. Jagtap, learned counsel is appointed to prosecute the cause of the petitioner, his fees be paid as per the schedule of fees maintained by the High Court Legal Services Sub-Committee, Aurangabad.

[MANGESH S. PATIL]
JUDGE

[S.S.SHINDE]
JUDGE