

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1128 OF 2017

Suhas Mahadev Roge

.....Petitioner

versus

The State of Maharashtra and ors.

.....Respondents

Mr. Niranjan S. Mundargi along with Mr. Karan Bhosale i/b. Mr. Santosh S. Musale, advocate for the petitioner.

Mr. J. P. Yagnik, APP for the State.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 18th APRIL, 2017.

P. C. :

Heard learned counsel for the petitioner and learned APP for the State.

2. By this petition, the petitioner is challenging the orders dated 2nd November, 2016 and 6th March, 2017, passed by the Deputy Inspector General of Police, Prisons, Pune and Addl. Director General of Police and Inspector General Prisons, Pune, whereby the petitioner's application for furlough is rejected on the ground that on four occasions the petitioner surrendered belatedly.

3. We have perused both the aforesaid orders. Perusal of the same reveals that :

(I) In the year -2013, the petitioner was released on parole for 30 days, however, he surrendered late by 28 days.

(II) In the year 2015, the petitioner was again released on parole for 30 days, however, he surrendered late by 8 days.

(III) In the year 2014, the petitioner was released on furlough for 14 days, however, he surrendered late by 5 days.

(IV) In the year 2015, the petitioner was again released on furlough for 14 days, however, he surrendered late by 1 day.

3. Mr. Mundargi, learned counsel for the petitioner, pointed out that so far as delay in surrendering in clauses (III) and (IV) above is concerned, the same is condoned. Mr. Mundargi further submitted that so far as delay in surrendering in respect of clauses (I) and (II) above is concerned, the petitioner's application for condonation of delay is pending and the same is not yet decided. Mr. Yagnik, learned APP, does not dispute this fact.

4. Mr. Mundargi stated and Mr. Yagnik, does not dispute that the petitioner is entitled for furlough in the year 2017. As stated above, that the petitioner's application is rejected only on the ground that on four occasions, the petitioner surrendered late. In respect of parole leave in the year 2014 and 2015 is concerned, the petitioner's application for condoning the delay is still pending. Despite the said delay, the petitioner was granted furlough leave in the year 2014 and 2015. Therefore, in our view, the delay in surrendering from parole leave as referred in clauses (I) and (II) could not have been the ground for refusal of petitioner's application.

5. In the above circumstances, both the orders impugned viz. the orders dated 2nd November, 2016 and 6th March, 2017, passed by the Deputy Inspector General of Police, Prisons, Pune and Addl. Director General of Police and Inspector General Prisons, Pune, cannot be sustained and the same are quashed and set-aside. The matter is remanded back to Deputy Inspector General of Police, Kolhapur Central Prison, Kalamba, to decide the petitioner's application afresh in the light of the observations made hereinabove. The learned Deputy Inspector General of Police shall decide the petitioner's application within eight days from the date of receipt of this order.

6. The writ petition stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]