

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3381 OF 2017

Vitthal Shankar Dombe .. Petitioner

Vs.

The State of Maharashtra .. Respondent

Ms.Rohini M. Dandekar, for the Petitioner.

Mrs.G.P. Mulekar, APP for State.

**CORAM : SMT. V.K.TAHILRAMANI &
M.S.KARNIK, JJ.**

20th NOVEMBER, 2017

ORAL JUDGMENT (PER SMT. V.K.TAHILRAMANI, J.):

1. Heard both sides.
2. The petitioner preferred an application for parole on 14/06/2016 on the ground of illness of his mother. The said application was granted. The petitioner was released on parole on 05/08/2016 for a period of 30 days. Thereafter the petitioner preferred first application for extension of parole on 15/08/2016 for a period of 30 days i.e. from 05/09/2016 to 04/10/2016. The petitioner did not receive any reply to the

said application. Thereafter the petitioner preferred 2nd application for extension of parole on 19/09/2016 wherein he sought further extension of 30 days. Meanwhile, since the extended period sought by the petitioner was over, he himself surrendered back to the prison on 04/11/2016. After the petitioner surrendered, he received communication dated 02/12/2016 in relation to his applications for extension of parole. In the said communication, it was stated that as per notification dated 26/08/2016, parole can be granted in a year for 45 days and in exceptional circumstance, extension of 15 days can be granted. Hence, the petitioner was granted extension of parole for further period of 15 days only.

3. Learned Counsel for the petitioner pointed out that the application of the petitioner is dated 14/06/2016 and pursuant to this application, the petitioner was released on parole on 05/08/2016 i.e. much prior to the notification dated 26/08/2016. Thus, she submitted that this notification cannot be made retrospectively applicable to the petitioner. We find the

contention raised by learned Counsel for the petitioner to be correct. The notification dated 26/08/2016 cannot be made retrospectively applicable to the petitioner. At the time the petitioner preferred an application for parole as per law which prevailed at that time, he was eligible to be released on parole for 30 days with further extension of thirty plus thirty i.e. extension of sixty days. Thus, he would have been released on parole for total period of 90 days. Looking to these facts, we are inclined to extend the parole period by thirty plus thirty days i.e. upto 04/11/2016. Any prison punishment imposed on account of overstay is set aside. Rule is made absolute in the above terms.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)