

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**CRIMINAL WRIT PETITION NO. 3461 OF 2016**

Mr. Anil Ramchandra Parab  
Age : 46 years, Occ.  
Having address at  
Mukkam Post, Nad (Talewadi)  
Taluka Devgad, District Sindhudurg .. Petitioner

Vs.

1. State of Maharashtra  
Through Public Prosecutor
2. Deputy Inspector General Jail  
Central Department, Aurangabad .. Respondents

Mr. Jagdish Pandey i/b Mr. Shashi D. Pandey, for Petitioner.  
Mr. H. J. Dedia, APP for State.

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

**26<sup>th</sup> APRIL, 2017**

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

1. Heard both sides.
2. The petitioner preferred an application for parole on 30/03/2013. The said application was granted by order dated 09/07/2013 and the petitioner was released on parole on

19/07/2013 for a period of 30 days. Thereafter the petitioner preferred an application for extension of parole on 01/08/2013 which was granted and parole period was extended by 30 days. Thereafter the petitioner preferred 2<sup>nd</sup> application dated 02/09/2013 for extension of parole which came to be granted and parole was extended by further period of 30 days. Thus, the petitioner had to surrender on 18/10/2013. However, the petitioner did not surrender on the due date i.e. 18/10/2013 and instead he surrendered on 22/11/2013. There was delay of 35 days in surrendering back to the prison. On account of his over stay, prison punishment was imposed on the petitioner of cutting remission of four days for each day of over stay. Being aggrieved by this fact, this Petition has been preferred.

3. Learned Counsel for the petitioner submitted that on account of high diabetics, the petitioner developed cataract in both his eyes. Hence, first operation took place on 07/10/2013. On that day, the left eye was operated. Thereafter on 18/10/2013, the petitioner was operated on the other eye i.e.

right eye for cataract. It is on account of these two operations that the petitioner could not report back to the prison in time. He submitted that in this view of the matter, parole period be extended by a further period of 35 days. As far as this contention is concerned, the petitioner was already released on parole for 30 days which period was extended by 30 plus 30 days i.e. total period of parole granted to the petitioner was 90 days. As rule stood at that time, parole period could not have been extended for more than 90 days. Hence, it is not possible to grant this relief to the petitioner.

4. Thereafter the learned Counsel for the petitioner submitted that in view of two operations undergone by the petitioner, a lenient view may be taken. It is not controverted that the petitioner has undergone two operations. Moreover, the jail chart of the petitioner shows that on 22/05/2012 and on 13/09/2012, the petitioner was released on furlough. On both the occasions, he reported back to the prison in time. Thereafter, the petitioner was released on furlough on

10/02/2016. He reported back to the prison in time. In addition, the petitioner was released on parole on 16/02/2015, 25/05/2015 and 03/08/2016 and on all occasions, he reported back to the prison on the due dates on his own. Thus, it is seen that the petitioner has been reporting back to the prison, on his own on due date except in the present case, where there was delay of 35 days and one more occasion i.e. on 20/08/2014, he was released on furlough and he reported back on his own to the jail though 1 day late as per the jail report of the petitioner. On both occasions of overstay he reported back on his own to the prison. Thus, looking to all the above facts, on humanitarian ground, we are inclined to reduce the period of punishment. Hence, instead of cutting remission of four days for each day of over stay, we reduce the prison punishment to cutting remission of one day for each day of over stay.

5. Petition is disposed of in the above terms. Rule is accordingly made absolute.

**(M.S.KARNIK, J.)**

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