

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3958 OF 2017

Mr. Shivaji Ramchandra Pawar .. Petitioner
Vs.
The State of Maharashtra .. Respondent

Mr. Prosper D'Souza, for the Petitioner.
Mrs. G.P. Mulekar, APP for State.

**CORAM : SMT. V.K.TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

22nd DECEMBER, 2017

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

1. Heard both sides.
2. The petitioner preferred an application for parole which is granted by the Authority on 03/09/2015. Pursuant to the said order, the petitioner was released on parole on 30/09/2015 for a period of 30 days i.e. till 29/10/2015. Thereafter the petitioner preferred first application for extension of parole on 19/10/2015. He sought extension of parole for 30 days i.e. upto 29/11/2015. Thereafter the petitioner preferred

2nd application for extension of parole on 20/11/2015. He sought extension of parole from 29/11/2015 to 28/12/2015. The application for extension was rejected by order dated 06/09/2016. Hence, this Petition.

3. The application of the petitioner for parole came to be rejected on the ground that the Doctor had advised that surgery of wife of the petitioner would be conducted after 20 days. However, the said certificate is without any signature or any stamp. Hence, the prayer of the petitioner for extension of parole was rejected. On perusal of the said medical certificate which is dated 15/10/2015, we noticed that there is signature thereon and it is on the letterhead. The certificate clearly shows that wife of the petitioner was suffering from severe Anemia, hence, the operation was postponed for a period of 20 days. We would also like to advert to the conduct of the petitioner. In the year 2011, 2012, 2014, the petitioner was released on furlough and on all occasions, he reported back to the prison on due date on his own. The petitioner was released on parole in the year

2009 and 2013 and on both occasions, he reported back to the prison on the due date on his own. Thereafter the petitioner was released on parole on 03/09/2015 i.e. the parole we are concerned with in the present case. It is pertinent to note that when he was released on parole as soon as the extended period sought by the petitioner was over, he surrendered back on his own to the prison on 28/12/2015. Thereafter the petitioner was released on parole on 28/09/2016 and he has reported back to the prison on due date on his own. This year the petitioner was released on furlough on 26/01/2017 and he has reported back on due date to the prison on his own. The conduct of the petitioner in the prison is stated to be good. Looking to these facts and medical certificate filed by the petitioner, we are inclined to grant 1st extension of parole i.e. from 30/10/2015 to 29/11/2015. Any prison punishment imposed on account of over stay is set aside.

4. As far as 2nd extension of parole i.e. from 30/11/2015 to 28/12/2015 is concerned, we are, prima facie,

of the opinion that if the petitioner did not receive any reply regarding his 1st application for extension of parole by 29/11/2015, he should have surrendered back to the prison. Thus, as far as period of 2nd extension from 30/11/2015 to 28/12/2015 is concerned, we are not inclined to interfere at this stage. It will be open to the Authorities to issue show cause notice regarding imposing any punishment on the petitioner and if punishment is imposed it would be open to him to challenge the same before this Court.

5. Rule is made absolute in the above terms.

6. Office to communicate this order to the petitioner who is in Kolhapur, Central Prison, Kalamba, Kolhapur.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)