

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4265 OF 2016**

Imtiyaz Noor Mohammed Hundekari,
C/o Zuleekha Noor Mohammed Hundekari,
Shobhadevi Nagar, P. No. 171,
Nai Zindagi Chowk,
Sholapur
(Currently at : C/13942, Circle No. 1/3,
Yerwada Central Prison, Pune – 6)

...Petitioner

Versus
State of Maharashtra
Through : Vibhag Commissionerate,
Pune Vibhag, Pune,
Vidhan Bhavan, Pune – 1

...Respondent

Ms. Rohini M. Dandekar for the Petitioner

Mr. H. J. Dedia, A.P.P for the Respondent-State

**CORAM : SMT. V. K. TAHILRAMANI &
REVATI MOHITE DERE, JJ.
THURSDAY, 5th JANUARY, 2017**

ORAL JUDGMENT (Per Smt. V. K. Tahilramani, J.) :

1. Heard both sides.
2. The petitioner was granted parole on the ground of illness of his daughter. Pursuant to the said order granting parole, he was released on

parole on 3rd November, 2011 for a period of 30 days. Thereafter, the petitioner preferred an application for extension of parole, which was received on 15th November, 2011. The petitioner did not surrender in time and he came back to the prison on 14th February, 2012. Thus, it was held that there was overstay of 72 days on the part of the petitioner. Hence, prison punishment was imposed on the petitioner of cutting of remission of 5 days for each day of overstay. Thus, for overstay of 72 days, remission of 360 days was cut. The prayer of the petitioner is that his parole period be extended for a period of 60 days.

3. As far as the prayer of the petitioner is concerned, it is seen that he had preferred only one application for extension of parole for a period of 30 days. The petitioner had not preferred any second application for extension of parole for a further period of 30 days. Hence, as he had not preferred second extension of parole for another 30 days, there is no question of granting him extension for the last 30 days.

4. In order to seek extension of parole, the petitioner has relied on his own medical certificate dated 30th November, 2011, which states that he

was suffering from viral fever and diarrhea and he was advised rest upto 29th November, 2011. However, it is seen that the petitioner was granted parole upto 2nd December, 2011. Hence, there is no question of extending parole based on this medical certificate. Thereafter, the petitioner has relied on medical certificate of his daughter dated 11th November, 2011, in which, it is stated that she was suffering from ischemic heart disease and it was necessary to operate her.

5. Parole can be granted only for a maximum period of 90 days. The petitioner was granted parole for 30 days i.e. from 3rd November, 2011 to 2nd December, 2011. The petitioner, though he preferred only one application for extension of parole and the said application was not granted, the petitioner overstayed for a period of 72 days. Ultimately, the petitioner had to be arrested and brought back to the prison. Looking to this fact, we are not inclined to grant extension of parole. However, looking to the medical certificate of the daughter, on humanitarian ground, we are inclined to reduce the period of punishment imposed on the petitioner. Hence, instead of cutting of remission of 5 days for each day of overstay, the prison

punishment is reduced to cutting of remission for 2 days for each day of overstay.

6. Rule is made absolute in the above terms.

7. Office to communicate this order to the petitioner, who is in Yerwada Central Prison, Pune.

(REVATI MOHITE DERE, J.)

(V. K. TAHILRAMANI, J.)