

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4909 OF 2017

Rajendra Prabhu Chikane
Age-Adult,
R/o. Pangaon, Tal.Barshi,
Dist. Solapur
At present Yerwada Central Prison, Pune ... Petitioner

Versus

1. Principle Secretary Home Department
State of Maharashtra,
Mantralaya, Mumbai.
2. Divisional Commissioner,
Pune Division Dist. Pune.
3. Jail Superintendent,
Yerwada Central Jiil, Pune.
4. The State of Maharashtra ... Respondents

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Mr. Priyal G. Sarda for the Petitioner.
Mr. Arfan Sait, A.P.P. for the State.

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**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. KARNIK, J.**

DATE : 12th DECEMBER, 2017.

ORAL JUDGMENT : [Per Smt. V.K. Tahilramani, Acting C.J.]

1. Heard both the sides.

2. The petitioner preferred an application for parole. The application for parole was granted by order dated 21/06/2016. Pursuant to the said order, the petitioner was released on parole on 08/07/2017 for a period of 30 days. Thereafter, the petitioner preferred the first application for extension of parole. The said application was granted and the parole period was extended for a period of 30 days i.e. from 08/08/2016 to 06/09/2016. Thereafter, the petitioner preferred second and last application for extension of parole for further period of 30 days i.e. from 07/09/2016 to 06/10/2016. The said application was rejected. Hence, this petition.

3. As far as the second and last application for extension of parole is concerned, admittedly, the said application was made within time. It is also an admitted fact that the application was not decided within a period of 30 days and it was rejected only on 29/12/2016. The petitioner has sought extension of parole from

07/09/2016 to 06/10/2016, however from the date of application till 06/10/2016 his application for extension was not decided. Hence, on 07/10/2016, as soon as the extended period prayed for by the petitioner got over, he surrendered back to the prison.

4. The application of the petitioner for parole was rejected on 29/12/2016 only on the ground that in view of the notification dated 26/08/2016 parole can be granted only for a maximum period of 60 days. It was stated on behalf of the prosecution that as per this notification, parole can be granted only for 45 days and extension of 15 days can be granted only once in three years.

5. The petitioner was already granted parole for a period of 30 days from 09/07/2016, which period was further extended from 08/08/2016 to 06/09/2016. In such case the authorities considered that the petitioner had already enjoyed parole leave for a period of 60 days, hence, no further extension could be granted to him. As far as this aspect is concerned, it is seen that the application of petitioner is much prior to the notification dated 26/08/2016. This is seen from the fact that the application of the

petitioner for parole was granted by order dated 21/06/2016. Pursuant to this order, he was released on parole on 08/07/2016. Thus, the application of the petitioner for parole being much prior to the notification dated 26/08/2016, the said notification cannot be made retrospectively applicable to the case of the petitioner. Thus, this notification cannot apply to the case of the petitioner. As stated earlier, the only ground on which the petitioner has been denied extension of parole is that in view of notification dated 26/08/2016, parole cannot be granted for more than 60 days. As observed by us, the notification would not apply to the case of the petitioner, hence, the order rejecting the application of the petitioner for second extension of parole is set aside. The appellate order is also set aside. The petitioner is granted extension of parole for 30 days i.e. from 07/09/2016 to 06/10/2016.

6. Rule is made absolute in the above terms.

(M. S. KARNIK, J.)

(ACTING CHIEF JUSTICE)