

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
: NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 129 OF 2017

Ramesh Babulal Shahu & another

VERSUS

The State of Maha. Thr. Secretary for Ministry of Home Dt. Mantralaya Mumbai & anothers

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. S.B. Khobragade, Advocate for the Petitioner.
Mr. M.K. Pathan, A.P.P. for Respondent Nos. 1 & 2.

CORAM : PRASANNA.B. VARALE AND
MURLIDHAR G. GIRATKAR, JJ.

DATE : 04/07/2017.

Learned counsel for the petitioner are before
this Court with a prayer of premature release.

The learned counsel for the petitioner
submit that the petitioners were granted parole and
furlough leave. Though they surrendered repeatedly
belated, the petitioners were not required to be
arrested and on their own they surrendered to the
prison authority. The learned counsel then submit
that the petitioner no.2 is having heart ailment. As
such the petitioner no.2 may be granted benefit of
pre-mature release.

On going to material placed on record, we find that the case of the petitioners was considered by the Prison Authorities. In view of the rules prevalent the petitioners were categorized in 4-D category and they would be released after completing the sentence of 24 years. The affidavit filed by the State shows that petitioners initially had approached this Court and this Court by order dated 18/7/2016 directed the authorities to pass orders afresh. Accordingly the matter was remitted to Respondent No. 2 Superintendent of Prison, Amravati for taking decision afresh.

Learned Additional Public Prosecutor Mr. Pathan invited our attention to the documents placed on record. He submitted that the petitioners on every occasion whenever they were granted furlough and parole leave they surrender to jail belatedly. The chart shows that the delay in surrender ranges from one day to 679 days and 602 days respectively. The petitioners were imposed punishment for removal of their name permanently

from remission book. In so far as grievance of the petitioners that though this Court directed the authorities concerned to pass orders afresh and the concerned authorities failed to comply with the orders of this Court is concerned, we are unable to accept the submission of the learned counsel. The material placed on record show that the respondent authorities in-compliance of the order of this Court, considered the matter afresh. The material placed on record further shows that the opportunity was granted to the petitioners of hearing by issuance of notice but the petitioners refused to accept the notice. The petitioners who refused to accept the notice can not submit before this Court that no opportunity was granted to them. On the contrary, the material place on record show that the punishment awarded to this petitioners were subject matter of appraisal of the learned District and Session Judge Amravati. The letter District Sessions Judge Amravati by considering the material on file with the Prison Authorities and approved

punishment awarded to the petitioners granted approval to the proposed punishment. Learned counsel made an attempt to submit before this court that the petitioner no.2 was entitled to premature release on the ground that the Prison Authorities ought to have conducted an enquiry to verify the reasons of belated surrender to the Prison Authorities. On a query made to the learned counsel that where there is such provision on the Prison Rules making such an enquiry mandatory in case of explanation for belated surrender. The learned counsel fairly submitted that there is no such mandatory provision in the rules but the said ground was raised for sympathetic consideration.

On perusal of the material we found that as such prevailing rules the prison authorities found that petitioners fall in the category of explanation under 4-D of the rules dated 15.3.2016. We find that no error is committed by the respondent authorities . The order passed by the authorities are just and proper and in accordance with the

prevailing rules. The petition thus being merit-less
deserved to be dismissed and the same is
accordingly dismissed.

JUDGE

JUDGE

Nandurkar