

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 456/2016

(PRABHAKAR JASAWANT MANDLEKAR (IN JAIL) **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms M.S. Hiwase, counsel (appointed) for the petitioner.
Mrs. K.S. Joshi, Additional P.P. for the respondents.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : MAY 04, 2017.

By this writ petition, the petitioner seeks a direction against the prison authorities to return the national savings certificate which was tendered towards surety by the wife of the petitioner when the petitioner was released on furlough.

The petitioner is undergoing imprisonment for life in view of his conviction for an offence punishable under Section 302 of the Penal Code. On 13.10.2014, the petitioner was released on furlough. His furlough leave was extended by fourteen days but, the petitioner did not surrender to the police authorities on the expiry of the furlough leave. The petitioner overstayed the furlough leave and surrendered two days later on the ground that his wife was suffering from viral fever. While granting furlough leave to the petitioner, the wife of the petitioner had deposited the national savings certificate of the value of Rs.5,000/- towards security for the release of the petitioner on furlough. The wife had given an undertaking to the authorities that in case the petitioner fails to surrender on the stipulated date, on the expiry of the

furlough leave, the national savings certificate deposited by her could be forfeited. Since the petitioner overstayed the furlough leave and did not surrender on the expiry of the furlough leave, the respondents forfeited the national savings certificate submitted by the wife of the petitioner. An application was made by the petitioner to the respondents for return of the national savings certificate but, the application was rejected on the ground that as per the relevant rules, the national savings certificate was liable to be forfeited, specially when the wife of the petitioner had submitted an undertaking that if the petitioner fails to surrender before the respondent-authorities within time, the national savings certificate could be forfeited.

On one of the previous dates of hearing, we had directed the respondent no.3-Superintendent of Prison to consider the case of the petitioner sympathetically. We had directed that the decision may be taken as early as possible.

Mrs.Joshi, the learned Additional Public Prosecutor, has tendered a copy of the order passed by the Superintendent, Nagpur Central Prison, dated 04.05.2017 in the Court today. It is stated that in view of our directions dated 21.04.2017, after considering the relevant rules and looking at the matter with sympathy, the Superintendent of Central Prison, Nagpur has decided to return the national savings certificate of the wife of the petitioner to her only on the condition that she deposits a sum of Rs.3,000/- within fifteen days. It is stated that since the representation of the petitioner is sympathetically considered, the writ petition could be disposed of.

We find that there was no illegality in the action on the part of the respondents in not returning the national savings certificate to the wife of the petitioner as admittedly, the petitioner had surrendered two days later and the wife had given an undertaking while depositing the national savings certificate that the national savings certificate could be forfeited if the petitioner does not surrender before the prison authorities on or before the last date of the expiry of the furlough leave. In the circumstances of the case, since the respondent no.4 has modified its earlier decision of forfeiting the national savings certificate on the condition that a sum of Rs.3,000/- should be deposited within fifteen days, the writ petition could be disposed of. The petitioner is permitted to make a representation to the respondents for grant of some further time, if need be, for depositing the sum of Rs.3,000/- with the respondent-authorities.

With the aforesaid observations, we dispose of the criminal writ petition with no order as to costs.

JUDGE

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