

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

CRIMINAL WRIT PETITION No. 923/2016.

Narayan Vitthal Kewate

-VERSUS-

The State of Maharashtra and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B. P. DHARMADHIKARI
& V.M. DESHPANDE, JJ.

DATE : APRIL 20, 2017.

Heard Mrs. P.T. Joshi, learned counsel
(appointed) for the petitioner and Ms. N.R. Tripathi,
learned A.P.P. for respondents.

2. Petitioner was released on furlough leave
on 15.01.2013 and was supposed to report after 14
days i.e. by 29.01.2013. He has surrendered on
24.02.2013 i.e. late by 26 days. Case of petitioner is
he sought extension of furlough leave by moving
appropriate application, supported by medical
certificate. That application has been wrongfully
rejected by communication dated 15/16.02.2013.

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3. Learned A.P.P. is relying upon averments in paragraph nos. 5 and 7 of the reply affidavit.

4. Paragraph no.5 shows the position in relation to medical certificate submitted by the petitioner. It is expressed that the said certificate is plain certificate without any documentary proof. In paragraph no.7 the Authority has pointed out fetter on its jurisdiction.

5. It is clear that the authorities cannot extend leave by more than 14 days.

6. Date on which the petitioner sought extension is very relevant. That date has not been pointed out either by the petitioner or by the respondents. Learned counsel [appointed] for the petitioner submits that on the strength of papers received by her from Legal Aid Services Authority, the matter has been drafted. She is seeking time to obtain instructions.

7. Learned A.P.P. is also seeking time to verify the position.

8. However, it is apparent that if furlough leave can be extended only by 14 days, petitioner should have reported at jail after expiry of said period

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even if such extension is presumed to be granted. Petitioner at the most was required to report by 12.02.2013. Thus, he could not have stayed on leave after 12th or 13th February, 2013. The impugned order of rejection has been passed on 16.02.2013 and petitioner has reported back on 26.02.2013.

9. In this situation, as date on which the application for extension was moved by the petitioner is not available and similarly, the date of its rejection appears to be after expiry of the permissible period of 14 days, we direct the respondent authorities to look into these aspects and pass fresh orders in accordance with law within further period of three weeks.

10. Writ Petition is partly allowed and disposed of. No costs.

11. Fees payable to the learned counsel appointed for the petitioner is quantified at Rs.1500/-.

JUDGE

JUDGE

Rgd.