

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL W.P.NO. 5465 OF 2017**

Sakir Ahmad Abdul Hamid Khan
@ Kallu

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondent

....
Ms. Rohini Dandekar Advocate appointed for Petitioner
Mrs. G.P.Mulekar APP for State
....

**CORAM : SMT.V.K.TAHILRAMANI ACTING C.J.
AND M.S.SONAK, J.**

DATED : AUGUST 03, 2018

ORAL JUDGMENT [PER SMT. V.K.TAHILRAMANI, ACJ.]:

1 Heard both sides.

2 The petitioner is seeking ex-post facto extension of furlough for a period of 14 days and is also praying for setting aside the order of security deposit of Rs.50,000/- and for refund of the said amount.

3 The petitioner preferred an application for furlough which came to be granted. Pursuant thereto, the

petitioner was released on 12.6.2015 for a period of 14 days. Thus, the petitioner had to surrender on 27.6.2015. Meanwhile the petitioner preferred an application for extension of furlough. Admittedly, the said application was in time. The said application was rejected, hence, this petition.

4 It is an admitted fact that the petitioner surrendered after 14 days to the prison on his own and it is not the case that the petitioner was arrested by the police and was brought back to the prison. The application of the petitioner for extension of furlough came to be rejected much later i.e. on 7.11.2016. In order to seek extension of furlough for a period of 14 days, the petitioner relied on a medical certificate which stated that he is suffering from high diabetes and asthma as well as prolapse inter-vertebral disc L-4, L-5 hence, he was advised to take bed rest for two weeks. This medical certificate has been produced by Jailor Mr. Sachin Narayan Patil, Jailor-2 from Kolhapur Central Prison, Kolhapur, which is taken on record and marked "**X**" for identification.

5 The application of the petitioner for extension of furlough for 14 days came to be rejected mainly on the ground that the petitioner has diabetes and asthma and the petitioner would have got the same treated during the furlough period or after he came back to the prison, hence, there was no need to extend the period he was on furlough. However, as stated earlier, the medical certificate also mentions that the petitioner has prolapse inter-vertebral disc L-4, L-5 and he was advised to take bed rest for a period of 15 days. This fact which is stated in the medical certificate does not find any place in the order of rejection. Looking to the fact that the petitioner had spinal problem for which he was advised to take bed rest, we are of the opinion that on humanitarian ground the furlough period can be extended by a period of 14 days. However, learned A.P.P. pointed out that the petitioner mentioned that he will stay at the address given by him at Juna Rajwada, Kolhapur during the period of furlough and he will not go anywhere else, however, the petitioner went out of Kolhapur during the period that he was on furlough.

6 Looking to the medical certificate of the

petitioner and looking to the fact that the petitioner had prolapse inter-vertebral disc L-4, L-5 problem and he was advised bed rest and looking to the fact that as soon as the period of 14 days was over, the petitioner surrendered back to the prison on his own, we extend the furlough by a period of 14 days. However, looking to the fact that the petitioner did not comply with the conditions in the order of release, we partially modify the order of forfeiture of security deposit of Rs.50,000/- and instead, we reduce forfeiture of the amount of security from Rs.50,000/- to Rs.25,000/-. We direct that the amount of Rs. 25,000/- shall be refunded to the petitioner. Petition is disposed of in above forms. Rule is made absolute accordingly.

7 Office to communicate this order to the petitioner who is in Kolhapur Central Prison, Kalamba, Kolhapur.

M.S.SONAK, J.

ACTING CHIEF JUSTICE