

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3100 OF 2013

Jalindar Bhimrao Sonawane (Convict No. 3144 confined at Nashik Road Central Prison)	.. Petitioner
Vs.	
The State of Maharashtra	.. Respondent

Ms.Rohini M. Dandekar, for the Petitioner.
Mr.Arfa Sait, APP for State.

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

01st FEBRUARY, 2018

ORAL JUDGMENT (PER SMT. V.K.TAHILRAMANI ACTING C.J.) :

1. Heard both the sides.

2. The petitioner is undergoing life imprisonment in Nashik Road Central Prison. The prayers of the petitioner are that the order relating to cutting his remission be set aside, he be appointed as a Night Watchman and he should be sent to open prison.

3. As far as first prayer is concerned, it is seen that the petitioner was released on parole on 05/01/2004 for a period of 30 days, however, the petitioner did not report back to the prison in time and ultimately he had to be traced and arrested by police and brought back to the prison. Thus, there was delay of 1184 days in the petitioner's coming back to the prison. On account of delay, remission was cut of 2 days for each day of overstay i.e. $1184 \times 2 = 2368$. In fact, the punishment proposed was cutting of remission of 3 days for each day of overstay, yet a lenient view was taken and remission was cut of 2 days for each day of overstay. Looking to the conduct of the petitioner, it cannot be said that the punishment is harsh. Hence, we are not inclined to set aside the order of cutting of remission of 2368 days. Thus, first prayer is rejected.

4. As far as second prayer is concerned that he is not appointed as a Night Watchman, learned APP pointed out that on account of delay of 1184 days in reporting back to prison, 2368 days of remission was cut which is already discussed

above. On account of this, the petitioner as of 31/12/2017 has a deficit of 765 days of remission which he has to make up. The Rules relating to Convict Officer are set out in Chapter XL of the Maharashtra Prison Manual 1979 which states that for a convict to be appointed as a Night Watchman, he should have completed 60 months of imprisonment and he should have 400 days of remission to his credit. The petitioner fulfills the first criteria as he has undergone more than 60 months of actual imprisonment, however, the petitioner does not fulfill second criteria of 400 days of remission to his credit. As of today, the petitioner has a deficit of 765 days of remission which he has to make up and only thereafter he will start accumulating remission. Thus, prayer of the petitioner that he be appointed as a convict Night Watchman cannot be granted.

5. As far as third prayer of the petitioner is concerned that he should be sent to open jail, learned APP on instructions from the Jailer of the Nashik Road Central Prison stated that the name of the petitioner will be put up before the next Selection

Committee which will recommend the names of the prisoners who will be sent to open jail. He stated that the said Committee is likely to meet by 30/04/2018 and name of the petitioner will be put up before the said Committee. At present, as far as third prayer is concerned, no further orders are necessary. As we are not inclined to grant any of the prayers of the petitioner, Rule is discharged.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)