

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3883 OF 2016

Hanmant Gangaram Bandgar	...Petitioner
Versus	
The State of Maharashtra	...Respondent

Mr. Prosper D'souza – Advocate appointed for Petitioner.
Mr. Arfan Sait for State.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 14th MARCH 2018

ORAL JUDGMENT : (Per : SMT. V. K. TAHILRAMANI, Acting C.J.)

1] Heard both sides.

2] The prayer of the petitioner is that he may be granted extension of parole. Extension of parole is sought on three occasions i.e. in the years 2007, 2012 and 2016.

3] It will be necessary to state few facts.

In 2007 the petitioner was released on parole on 5th January 2007 for a period of 30 days. The petitioner preferred an application for extension of parole for a period of 30 days. The learned APP pointed out that the first

application for extension of parole was granted and parole period was extended from 4th February 2007 to 5th March 2007. Thereafter the petitioner preferred second application for extension of parole for a further period of 30 days that is from 6th March 2007 to 4th April 2007. The learned APP has pointed out that second extension of parole leave was granted but in fact the petitioner surrendered on 13th April 2007. As per the Rules prevailing at that time a prisoner could be released on parole for a period of 30 days with a maximum of two extensions of 30 days each being granted to the prisoner. Thus it is seen that the maximum extension of parole i.e. of a period of 60 days has already been granted to the petitioner. However, in fact, despite granting extension of parole for period of $30 + 30 = 60$ days, there was overstay on the part of the petitioner of 8 days. For the delay in returning back to the prison after 68 days, punishment of cutting of remission of 191 days plus some other punishment was imposed on the petitioner. However, as stated earlier, extension of parole of 60 days was granted to the petitioner though later in point of time. Thus, though extension of 60 days was granted, there was 8 days overstay for which 8 days remission has been cut. In view

of the Bombay Furlough and Parole Rules, 1959 maximum period of extension was granted to the petitioner, hence no further extension could be granted to the petitioner. Even after granting extension of 60 days there is over stay of 8 days, for which, we are of the opinion that minimum punishment was imposed on the petitioner of cutting of remission of 1 day for each day of overstay. Thus as far as this overstay of 8 days is concerned, we are of the opinion that it does not call for any interference.

4] As far as the year 2012 is concerned, the petitioner was released on parole on 13th November 2012 for a period of 30 days. Thereafter the petitioner preferred an application for extension of parole from 13th December 2012 to 11th January 2013. Thereafter the petitioner preferred another application for extension of parole from 12th January 2013 to 10th February 2013. However in the meanwhile the first application for extension of parole was rejected on 4th January 2013. However despite this fact the petitioner did not report back to the prison immediately and he returned to the prison after an overstay of 59 days. On account of this, remission was cut of 5 days for each day of over stay.

This was done in view of Notification dated 2nd August 2011 wherein it is provided that if a prisoner while on second parole is late, in surrendering back to the prison, remission would be cut of 5 days for each day of overstay. No doubt, the Rule also provides that if any justifiable reason is found for being late then the said punishment can be reduced. It is the case of the petitioner that as his wife was suffering from medical problems he could not report back to the prison in time and hence there was delay of 59 days in reporting back to the prison. However, it is noticed that there is no medical report or any document to support the claim of the petitioner that during this period his wife was seriously unwell, due to which he could not report back to the prison in time. The learned APP also pointed out that the police report dated 6th December 2012 shows that in fact the son and daughter of the petitioner were available in the house to take care of their mother i.e. the wife of the petitioner. The police report further shows that during the period that the petitioner was granted parole i.e. from 13th November 2012 to 12th December 2012, the petitioner did not regularly report to the police station. Looking to the fact that there is no material to substantiate the claim of

the petitioner that his overstay was on account of his wife being seriously ill and looking to the other facts and circumstances of this case including the fact that the petitioner violated the terms and conditions under which he was released on parole, we are not inclined to interfere in this prison punishment of cutting of remission of 5 days for each day of overstay i.e. for 59 days, 295 days of remission was cut.

5] Coming to the year 2016, it is seen that the petitioner was released on parole on 28th January 2016 for a period of 30 days. The petitioner preferred an application for extension of parole for a further period of 30 days i.e. from 28th February 2016 to 28th March 2016. This extension of parole was granted by the Authorities. In the meanwhile, petitioner preferred another application for extension of parole for a further period of 30 days i.e. from 29th March 2016 to 27th April 2016. This application for extension of parole came to be rejected. Being aggrieved thereby, the petitioner preferred an appeal. The appeal also came to be dismissed. Hence, this petition.

6] However, as far as this overstay from 29th March 2016 to 27th April 2016 is concerned, as of now, no prison punishment has been imposed on the petitioner and the case is pending before the Authorities to consider whether punishment is to be imposed and if at all how much punishment is to be imposed. In this view of the matter, at this stage, as far as the year 2016 is concerned, we are not inclined to interfere. It will be open to the petitioner to prefer a fresh petition, if at all any prison punishment is imposed on him and if he is aggrieved by the same. With the above observations, this writ petition is disposed of.

7] Rule is discharged.

8] Office to communicate this order to the petitioner who is in Yerwada Central Prison, Pune.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA