

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

CRIMINAL WRIT PETITION NO.175 OF 2018

[Rohit Prem Baghel .vs. State of Maharashtra and others]

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

Court's or Judge's orders

Ms. S.D. Paul, counsel (appointed) for the petitioner,
Mrs. K.S. Joshi, APP for respondents.

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

DATED : MARCH 14, 2018.

By this writ petition, the petitioner challenges the order of the District Judge-8 and Additional Sessions Judge, Nagpur, dated 4.9.2017 accepting the proposal of the Superintendent of Jail imposing the punishment of depriving the petitioner from getting the benefit of remission of 160 days.

According to the petitioner, the father of the petitioner was not well at the relevant time and hence the petitioner had overstayed the parole leave by 40 days. It is stated that since the father of the petitioner was seriously ill, the petitioner could not report to the prison on the due date. It is stated that in similar set of facts, this court has partly allowed Criminal Writ Petition No.882 of 2015.

We have heard the learned counsel for the parties and have perused the affidavit-in-reply of the respondent no.3 that is tendered in the court today. From the chart incorporated in the affidavit-in-reply filed on behalf of the respondent no.3, we find that apart from the release of the petitioner on parole leave on the concerned occasion on 2.5.2013 when he had surrendered 40 days after the due date, he was released on furlough and parole leave on six occasions. In almost all the occasions, the petitioner

had surrendered on the due date and only on one occasion he had surrendered seven days after the due date. We find from the communication addressed by the petitioner to the Superintendent of Prisons that at the relevant time when the petitioner had surrendered belatedly after 40 days, his father was seriously ill and was admitted in the hospital. The father of the petitioner had expired 3-4 months after the petitioner had surrendered in the year 2013, 40 days after the expiry of the due date. As it is the case of the petitioner that the petitioner is the only male member in his family to look after his father and since his father was admitted in the hospital, he could not have left his father in a lurch and returned to the prison on the due date. In the circumstances of the case, by taking a lenient view in the matter, as the petitioner had surrendered on the due date on most of the occasions when he was released on parole or furlough leave, by relying on the judgment dated 7.12.2015 in Criminal Writ Petition No.882/2015 we wish to grant some relief to the petitioner.

Hence, for the reasons aforesaid, the Criminal Writ Petition is partly allowed. The impugned order is modified. In the circumstances of the case, instead of reducing the remission of the petitioner by 160 days, we reduce the remission of the petitioner by 80 days by applying the multiplier of 2 instead of 4, the remission of the petitioner is reduced by 80 days. Order accordingly.

JUDGE

JUDGE