

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

WRIT PETITION NO.1766 OF 2019

Popat Mahadeo Shinde	...	Petitioner
V/s.		
The State of Maharashtra	...	Respondent

Mr. Abhishek M. Sing for the Petitioner.
Mr. H. J. Dedhia, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI AND
SMT. SWAPNA S. JOSHI, JJ.
DATE : 25/6/2019.**

P.C.:

. Heard learned counsel (appointed) for the petitioner and learned APP for the State. Perused record.

2. The petitioner-convict was allowed 30 days parole leave for attending his ailing mother from 1/9/2016 up to 30/9/2016. He sought extension of 30 days by moving application on 12/9/2016. Thereafter he sought further extension on 14/10/2016 of 30 days. He reported back on 30/11/2016 voluntarily.

3. By impugned communication dated 2/12/2016 he was informed that as per policy decision maximum leave which could have been enjoyed in the year was 45 days and hence he would be given extension only of 15 days i.e. till 15/10/2016. Period thereafter till 30/11/2016 has been considered as over stay.

4. Learned counsel for the petitioner states that modified policy

decision could not have been made applicable as on the date on which petitioner sought parole ceiling on parole leave was of 90 days in a year.

5. Learned APP submits that the authorities have applied modified law and therefore passed the impugned order accepting ceiling of 45 days. According to him there is nothing wrong with the impugned order.

6. We find that law applicable on the date on which parole was applied for should have been looked into. Similarly if extension was not to be granted beyond 15 days, petitioner could have informed immediately so that he would have made necessary arrangement. Petitioner filed applications for extension well within time. By communication dated 2/12/2016 these applications have been disposed of. In the meanwhile, under impression that in absence of any communication to the contrary extended leave is allowed, he has remained out for period of 90 days and reported back himself on 30/11/2016.

7. In this situation, we find that belated communication could not have been used to his prejudice and if extension was not to be allowed he ought to have been informed in advance. Impugned order does not show that his past record is unsatisfactory.

8. In this situation, taking overall view of the matter, we direct Respondent to allow petitioner extension upto 30/11/2016 and proceed further accordingly. The petition is allowed and disposed of.

(SMT. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)