

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

WRIT PETITION NO.1767 OF 2019

Pandit Shankar Kalan ... Petitioner
V/s.
The State of Maharashtra and Ors. ... Respondents

Ms. Savita M. Yadav for the Petitioner.
Mr. J. P. Yagnik, APP for the Respondents.

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

P.C.:

. The petitioner-prisoner challenges the order of imposing punishment dated 15/5/2014. Admittedly, he has reported back in prison after delay of 60 days and for it remission cut of 240 days has been ordered. Learned counsel for the petitioner (appointed) submits that punishment itself is unwarranted and in any case the period of remission cut is harsh.

2. Learned APP has invited our attention to the facts of the case. He submits that the prisoner who should have reported back on 11/11/2013 actually came back on 10/1/2014. There is no explanation for it. Hence after giving appropriate opportunity and in accordance with principle of natural justice, authority has exercised discretion available to it. He pointed out that maximum possible punishment could have been 5 days of remission cut for each day of delay.

3. After receipt of show cause notice in this respect, the petitioner has

given reply and in reply he has pointed out that after release on parole leave, he suffered jaundice and was receiving treatment for about 45 days. He therefore could not report back. He has further stated that his father got heart attack on 3/1/2014. The impugned order does not hold these facts to be irrelevant or false. The authority has found that there was unauthorized overstay of 60 days and hence he is liable to be punished. In above facts when the prisoner has reported back himself on 10/1/2014 and was not required to be arrested and brought back, we find that a lenient view could have been taken. Maximum punishment prescribed is of 5 days remission cut. Law does not prohibit the authorities from imposing a lessor or mild punishment.

4. We, in this situation, substitute remission cut of one day for delay of each day. Thus, remission cut of 240 days is brought down to remission cut of 60 days. The petition is partly allowed and disposed of. Copy be sent to the prisoner in jail.

(SMT. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)