

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2566 OF 2019

Hanmant Gangaram Bandgar ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

Shri Shashikant D. Chandak, advocate for the petitioner.
Shri Arfan Sait, APP for the respondent – State.

CORAM : B.P. DHARMADHIKARI AND
MRS. SWAPNA S. JOSHI, JJ.

DATE : 5th AUGUST 2019.

P.C. :

1. Heard learned counsel Shri Chandak (appointed) and the learned APP.
2. Prisoner, who is on furlough leave for a period from 23/10/2015 till 07/11/2015, sought its extension by moving an application on 29/10/2015 pointing out that his wife was seriously ill and needed medical attention.
3. He did not report to the prison on 07/11/2015, remained out for 14 more days and came back to prison on 21/11/2015.
4. The extension sought for has been declined on 10/01/2017.
5. Thus, before 07/11/2015 or then before 20/11/2015 petitioner did not have any intimation of rejection of extension.
6. It appears that even before rejection of extension, a show-cause

notice dtd.01/12/2015 was served upon him asking explanation why there should be no cut in remission. Order of prison punishment has been passed on 16/08/2017 stating that explanation furnished by the prisoner on 10/04/2017 did not inspire confidence.

7. Thus, after issuing show-cause notice for prison punishment, the order rejecting extension of leave came to be passed on 10/01/2017.

8. Prisoner has relied upon certificate issued by Sanjeevani Clinic on 27/10/2015. Surprisingly, this certificate shows some erasures on date of discharge and in number of days, for which bed-rest was advised. The date of discharge is shown to be 28/10/2015.

9. Ideally a prisoner, who has not received an order sanctioning extension, should have reported back, on due date. Here, medical certificate shows viral fever and fact of wife being indoor patient for one day only.

10. We, therefore, find errors on either side.

11. Petitioner was in open prison and even today is in open prison. We, therefore, bring down the cut in remission from 14 days to 7 days. The order of punishment dtd.16/08/2017 is modified only to that extent.

12. Writ Petition is partly allowed and disposed of.

13. Order be communicated to prisoner in jail.

(MRS. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)