

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 127 OF 2018

IN

WRIT PETITION NO. 410 OF 2017

Sayyed Ali Sayyed, through jail
V/s.

....Applicant

The State of Maharashtra

....Respondent

* * * *

Mrs. P.P. Shinde, APP for State.

CORAM : B.P. DHARMADHIKARI, &

SANDEEP K. SHINDE, JJ.

Monday, 10th June, 2019.

P.C. :

1. Prisoner, convict seeks an order of return of his security deposit furnished at the time of his release on furlough in February/March, 2014. Learned APP has invited our attention to the fact that, he was released on furlough leave for 14 days and thereafter was given extension of 14 more days which expired on 19th March,

2014. He was to report back on 20th March, 2014 but he has reported late by one day i.e. on 23rd March, 2014.

2. Perusal of order dated 2nd August, 2016 by which return of security amount is rejected, shows that, the petitioner had submitted a Medical Certificate which revealed that he was under medical treatment for some acid peptic disorder upto to 20th March, 2014 and was to become fit on 21st March, 2014. It appears that, earlier, for late reporting by one day, he was administered a warning. Because of this conduct & previous history, security deposit has not been refunded.

3. Order shows that, prisoner has four daughters, one son. It is claimed that, security deposit amount of Rs.12,000/- was taken as loan by his wife.

4. Learned APP submits that, residence of prisoner was within two to three kilometers of prison and he could have therefore definitely reported back within time.

5. Record shows that, after his late return by one day in March, 2014, he has availed furlough leave for 14 days in March, 2014, he has availed furlough leave for 14 days in October-November, 2014 and again for 14 days in

July-August, 2016. On both occasions, he has reported back on due dates.

6. In this situation, when the prisoner had given Medical Certificate, we find, denial of refund of security deposit, harsh.

7. We permit prison authorities to substitute said order by any other prison punishment.

8. Accordingly, with liberty to the Authorities to pass suitable orders for late return in March, 2014 and with direction to them to return security deposit amount to the petitioner within four weeks from today, we dispose of the present petition.

(B.P. DHARMADHIKHARI, J)

(SANDEEP K. SHINDE, J)