

27.8.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1389 OF 2019

Shiv Chandrama Loni

...Petitioner

V/s.

The State of Maharashtra

....Respondent

Mr. Udayan L. Shah, Advocate for the petitioner.

Mr. H.J. Dedhia, APP for the respondent-State.

CORAM : B.P. DHARMADHIKARI, &

SANDEEP K. SHINDE, JJ.

Tuesday, 27th August, 2019.

P.C. :

1. Petitioner proceeded on parole leave for attending his wife suffering from appendicitis on 22nd December, 2015. He was to report back on 20th

January, 2016. On 4th January, 2016 he sought extension of thirty days. On 4th February, 2016 he sought other extension of thirty days.

2. He has reported back voluntarily, after the expiry of second extension of 21st March, 2016.

3. His first extension was rejected on 30th May, 2016 i.e. more than two months after his return to prison. Second extension appears to have been rejected before that, i.e. on 2nd March, 2016 itself. Second extension is before rejection of first extension, and also before return of prisoner back to prison. However, it is after second span of extension of thirty days had commenced after 21st February, 2016. Because of this late return, an order of prison punishment has also been passed on 19th September, 2016. Three hundred days of his

remission has been cut by invoking the maximum possible punishment.

4. The petitioner claims that, he had supplied Medical Certificates pointing out the health condition of his wife to the Divisional Commissioner. First Certificate is dated 8th June, 2015 and later Certificate is dated 1st February, 2016. Certificate dated 8th June, 2015 is obviously for the purposes of seeking parole. This implies that, no Certificate was submitted while seeking first extension on 4th January, 2016. However, while seeking second extension, Certificate dated 1st February, 2016 may have been submitted to authorities. The Authorities do not consider the above mentioned relevant dates or impact thereof. Second extension could not have been rejected before taking decision on first extension

application.

5. The Learned APP is also right when he submits that in absence of extension order, the petitioner was duty bound to report immediately.

6. In this situation, we find that interest of justice can be met with by reducing the cut in remission from 300 days to 60 days i.e. one day cut in remission for each one day of late reporting.

7. Thus, we modify the order of punishment dated 19th September, 2016 accordingly and partly allow the Writ Petition and dispose of the same.

8. Order be communicated to the prisoner in jail.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)