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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1590 OF 2019

Santosh Rajaram Wankhede	... Petitioner
Versus	
The State of Maharashtra	... Respondent

Mr. Udayan L. Shah for the Petitioner.
Mr. Arfan Sait, APP for the Respondent - State.
Mr. Prashant M. Nagawade, Jailor, Gr-2, Nashik Road Central Prison.

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

DATE : 15th JULY, 2019.

P.C. :

1 Heard Mr. Shah (appointed) and learned APP. Prisoner assails the order dated 20th October 2018 rejecting him furlough leave and an order in appeal dated 2nd February 2019.

2 After hearing respective counsel we find that the petitioner when released on furlough leave in 2015 reported back late by one day. Despite this in 2016 he was permitted to avail parole and at that juncture he was required to be arrested and brought back after 473 days. For this not reporting, his name has been permanently removed from remission register and an offence under section 224 IPC is registered.

3 Citing these reasons and after mentioning that the petitioner has no right to furlough, impugned orders have been passed.

4 The learned APP has invited our attention to the fact that prisoner has not been co-operating with Jail Authorities and is not doing the assigned work. The jail officials are free to proceed against him as per law in this situation.

5 However, circumstances in which he could not report back after expiry of parole leave are not brought on record. The counsel appointed has no instructions in this respect and the learned APP submits that those papers form part of other records.

6 Instead of keeping the matter pending we find that in this situation interest of justice can be met with by granting petitioner leave to apply afresh for such type of leave as he may be advised. After receipt of that application authorities shall consider it in accordance with law and at that time also keep in mind justification, if any, offered by the petitioner for his not reporting within scheduled time in 2016.

7 With these directions, we partly allow writ petition and dispose it of. No costs.

(MRS. SWAPNA S. JOSHI, J.)

(B.P. DHARMADHIKARI, J.)