

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

CRIMINAL WRIT PETITION NO.2646 OF 2014

Suresh Ganpati Mane

.. Petitioner

Vs.

The Superintendent,
Yerwada Central Prisons

.. Respondent

.....
Mrs.Farhana Shah, Advocate for the Petitioner.
Mrs.M.H. Mhatre, APP for the Respondent-State.
.....

**CORAM : B. P. DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.**

DATE : APRIL 03, 2019.

P.C.:

Heard learned counsel appointed for petitioner and learned APP for the State. Petitioner in jail for the offences punishable under Sections 498(A) and 302 of Indian Penal Code, questions the orders of punishment dated 19th August, 2003, 13th May, 2006, 16th May, 2006. By these orders, for belated return, after following proper procedure, order of removal of his name from Remission Register and asking him to suffer two days disadvantage in that respect for each day of the delay, has been passed. Thus, for belated return, on 7th January, 1997 of 1889 days, he has been imposed punishment

of remission cut of ten years. For 181 days delay in return on 8th November, 2003, remission cut of 363 days has been ordered. Similarly for belated return on 10th April, 2006 of 426 days, the remission cut of 235 days and removal of name for future five years from Remission Register has been ordered. On all three occasions, police arrested him and brought him back.

2 Counsel for petitioner submits that he is in prison since 21st May, 1991, and, as of now has put in about 28 years. It is submitted that Cancer suffered by mother, injury and hospitalization of present petitioner and disability suffered by him, are the reasons which did not permit him to return on due dates.

3 Learned APP strongly opposing the petition. She submits that on each occasion, show cause notice was given to the petitioner, his reply has been taken and after considering it the order of punishment has been passed. She points out that on every occasion he was required to be arrested and brought back and hence there are no mitigating circumstances in favour of petitioner. According to her, after categorization

petitioner may be put in 26 years category, and, therefore, he has to undergo some more period. She points out that as of now, he has completed only 18 years in prison.

4 We find that after these instances of arrest, petitioner was released on parole on 13th December, 2012 and he has reported back himself on 14th March, 2013, after delay of one day. Similarly, he was given furlough on 12th June, 2014, 17th December, 2014, 28th July, 2015, 23rd March, 2016 and 10th June, 2017. On all these occasions, he has reported back on due date. Only on last occasion i.e. on 7th July, 2017, he has come back after a delay of about one day.

5 Considering the explanation furnished by the petitioner in response to show cause notices, and his conduct, and disability which he had suffered, we are inclined to intervene in the matter. The General Hospital at Ratnagiri has on 26th June, 2007, pointed out that he has suffered 50% permanent disability.

6 We, in this situation, bring down the period of punishment to one day for each day of the delay. Thus, he shall undergo remission cut of 1889 days, 181 days and 426 days for belated return.

7 The impugned order of punishment is, accordingly, modified in this respect. The petition is, accordingly, disposed of. No costs.

8 Copy of the order be served upon the prisoner in jail.

(PRAKASH D. NAIK, J.)

(B.P. DHARMADHIKARI, J.)