

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 90 OF 2019.

(Dilip Mahipatrao Zungare, C-4102, detained in Central Prison, Amravati Vs. Deputy
Inspector General of Prison, Eastern Region, Nagpur & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri A.S.Chakotkar, Advocate (appointed) for
petitioner.

Shri M.K.Pathan, APP for respondents/State.

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**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
JULY 25, 2019.**

Prayer in this petition is to quash and set-aside the impugned order dated 28/08/2012 passed by respondent no.2 and for other reliefs in reference to subject matter of the petition.

The petitioner is convicted for the offence punishable under Section 302 of the Indian Penal Code and was granted Parole Leave for 30 days. However, the petitioner surrendered late by 24 days and therefore, is issued with notice for imposing proposed punishment to which petitioner submitted his reply contending that since his brother was hospitalized due to kidney failure, he could not

surrender on due date, which explanation is not considered and by rejecting the same petitioner is imposed with punishment in the ratio of 1:4 for 96 days as per Government Resolution dated 02/08/2011.

Learned counsel for petitioner submitted that the impugned order does not establish consideration of his explanation before imposing punishment.

On the earlier date, we had granted time to learned APP to seek instructions if any police report was obtained before considering the petitioner's explanation for surrendering late. Accordingly, learned APP has produced report of the Superintendent of Police, Central Jail, Amravati wherefrom it is found that before passing the impugned order, no police report was obtained with regard to explanation submitted by the petitioner and it is only on considering the appraisal by the learned Sessions Judge, Amravati the impugned order came to be passed.

In that view of the matter, we find that the petitioner's case is required to be reconsidered by the Competent Authority after obtaining police verification and on satisfying if petitioner's brother was suffering from such ailment due to which he was unable to surrender on due date, or otherwise.

In the circumstances, we dispose of the petition and direct the respondents to reconsider the petitioner's case before imposing punishment of 96 days.

Needless to say that the petitioner shall be allowed to submit relevant documents to the Competent Authority for its due consideration afresh.

Fee of the Advocate (appointed) is quantified at Rs.1500/- (Rs. Fifteen hundred only).

JUDGE

JUDGE

Sumit