

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

WRIT PETITION NO.6341 OF 2019

Vijay Ramchandra Thopte

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Ms. Harjeet Kaur for the Petitioner.

Mr. K. V. Saste, APP for the Respondent/State.

**CORAM : B.P. DHARMADHIKARI &
N.R. BORKAR, JJ.**

DATE: 14/2/2020.

PC.

. Heard for some time. Perused orders dated 7/6/2019 refusing furlough leave and the appellate order dated 18/11/2019 upholding rejection. We find that on 25/1/2019 the Division Bench of this Court in Writ Petition No.4813/2019 placed back the matter before that authority for consideration of request of parole. Said parole was granted on 3/5/2019 and the prisoner has reported back voluntarily on 18/6/2019.

2. When he was on parole leave, on 7/6/2018 his prayer for furlough was rejected on the ground that earlier he had absconded for 28 days in 2003 and thereafter in 2005 he had absconded for 1859 days.

3. Learned APP however has submitted that this late

reporting or absconding is not the reason used by the Appellate Authority. Appellate Authority has found conduct and behaviour of the prisoner in jail unsatisfactory.

4. During arguments the report of jailor has been produced which shows that conduct of the prisoner is not satisfactory. The recommendation submitted also shows that he has not reported to work.

5. Learned counsel for the petitioner states that the papers are produced in Court and therefore she does not have instructions on these papers. However, the prisoner has pointed out his physical disability and that disability has not been looked into by the Appellate Authority.

6. According to the prisoner work suitable for him has not been allotted. We keep this issue open.

7. Chart shows position from March-2018 till February 2019. Now period of 12 months more has expired.

8., We therefore direct the Competent Authority to look into his alleged physical disability and then find out whether work befitting his capacity and ability was allotted to him and he has avoided it.

9. This exercise shall be completed within next 6 weeks from today.

10. After completing this exercise, the authority shall pass fresh orders on request for furlough within next 6 weeks.

11. With this direction, we dispose of the petition.

(N.R. BORKAR, J.)

(B.P. DHARMADHIKARI, J.)