

Vishwanath
S. Sherla

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

Digitally signed by
Vishwanath S. Sherla
Date: 2021.02.11
19:26:37 +0530

CRIMINAL WRIT PETITION NO.1275 OF 2020

Mahesh Suresh Patil

... Petitioner

Vs.

State of Maharashtra & others

... Respondents

Ms.Nasreen Ayubi for the Petitioner

Mr.J.P. Yagnik, APP, for Respondent – State

**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**

DATED: FEBRUARY 11, 2021

P.C.:

1. Heard the learned Counsel appearing for the petitioner.
2. The learned Counsel for the petitioner submits that the petitioner's mother is suffering from an ailment and, therefore, the petitioner applied for parole. However, the respondent authorities have rejected his prayer to release him on parole. The learned Counsel submitted that it is true that when the petitioner was earlier released on parole, he surrendered after 1170 days and not within time. However, the petitioner was tried under section 224 of the Indian Penal Code and the learned Judicial Magistrate First

Class, Miraj, has acquitted the petitioner. It is submitted that since for the same act of absconding, the petitioner was tried and acquitted, the respondent authorities were not justified in refusing him to be released on parole on the ground of delay of 1170 days in surrendering to the jail authorities. The learned Counsel further submitted that after the petitioner's request was turned down for releasing him on parole, he applied for furlough, however, his prayer was turned down by the respondents. Therefore, the learned Counsel submitted that the petition deserves consideration.

3. On the other hand, the learned APP appearing for the State, relying upon the reasons given in the impugned order submitted that the Writ Petition may not be entertained.

4. We have given due consideration to the rival submissions. With the able assistance of the learned Counsel, perused the pleadings and the grounds taken in the petition and the annexures thereto and the impugned order. It is an admitted position that when the petitioner was released on furlough, he did not report back within the period for which he was released and he was required to be arrested and brought to the jail. The total period of

his unauthorised stay outside the jail is 1170 days. By any standard, such overstay of 1170 days cannot be countenanced. The petitioner did not surrender on his own but was required to be arrested. We have perused the order passed by the learned JMFC, Miraj and we find that the petitioner was acquitted on a technical ground.

5. In that view of the matter, we are unable to persuade ourselves to grant any relief to the petitioner. Hence, the petition is rejected. However, we make it clear that the petitioner is not precluded from making further prayer after lapse of a reasonable period as required under the Rules to apply for parole or furlough, as the case may be.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)