

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

CRIMINAL WRIT PETITION NO. 1089/2019

PETITIONER : Kunal Anil Jaiswal,
(In Jail) Aged about Major, Occ. Nil,
R/o. Convict No. C-9078, Central
Prison, Nagpur.

...VERSUS...

RESPONDENTS: 1. State of Maharashtra, through Department
of Home, Mantralaya, Mumbai.

2. Superintendent,
Central Jail, Nagpur.

Shri A.R.Fule, Advocate for petitioner
Shri S.M.Ghodeswar, APP for Respondents.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATE : 19/01/2021.

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

.1] Heard the respective counsel for the parties.

2] Rule. Rule made returnable forthwith. Heard finally by
consent of the learned Counsel for the parties.

3] This petition is based upon the suppression of material facts and therefore, on this ground alone, the petition deserves to be dismissed.

4] It is the contention of the petitioner that the last date of his surrender before the jail authority was 31.03.2016 and before expiry of that date, the petitioner had by an application dated 14.03.2016 made an application to the jail authority for extension of the parole already granted to him, but, that application was not decided within time and therefore, the petitioner went to the jail authority for his surrender on 03.04.2016, but his surrender was not accepted and later on the petitioner was brought to the prison on 17.04.2016. According to the learned counsel for the petitioner, this is the ground which would show that the impugned order of imposing punishment of 64 days at the rate of 4X17 days cut in remission is erroneous.

5] Shri Ghodeswar, learned APP submits that from the fact that the petitioner was required to be brought back by arresting him would itself show that the petitioner does not deserve the relief prayed for in this petition.

6] Although the ground which has now been canvassed orally by the learned counsel for the petitioner is there, the material fact that the application dated 14.03.2016 of the petitioner was rejected by the jail authority has not been mentioned in the petition by the learned counsel for the petitioner. By suppressing this material fact, the petitioner has tried to earn sympathy of this Court, although now it has transpired that the petitioner was communicated the order of rejection and according to the petitioner, and it was on 21.04.2016. If the application of the petitioner regarding extension of parole was not granted or was kept pending by the jail authority, nothing had prevented the petitioner from surrendering before the jail authority on the due date. But, the petitioner had not done so and by misleading this Court has tried to take advantage of his own wrong. Such an attempt cannot be tolerated by this Court. The petition deserves to be dismissed and it is dismissed accordingly. Rule is discharged.

7] In the present case, we are not inclined to pass any order regarding payment of legal remuneration to the appointed counsel

for the reason that instead of assisting the Court, learned counsel has tried to mislead the Court, as the learned counsel for the petitioner do not require to assist the Court in a manner as dispassionate as it should be expected from him.

JUDGE

JUDGE

Rvjalit