

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

WRIT PETITION NO. 4543 OF 2021

Renuka w/o. Anil Lashkre

...Petitioner

vs.

The State of Maharashtra & Anr.

...Respondents

Mr. Rupesh Anil Jaiswal for Petitioner.

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

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.**

DATED : 2 FEBRUARY 2022

PC. :

. Heard learned Counsel for the Petitioner.

2. Limited issue is raised in the petition. The challenge is to the order of prison authorities whereby the application of the husband of the Petitioner was rejected. The husband of the Petitioner is presently lodged in Central Prison, Yerwada, Pune as Convict No.C/16954 and suffering life imprisonment vide a judgment and order passed by the learned Sessions Judge, Ahmednagar in Sessions Case No.51/2014. Perusal of the order impugned in the petition shows that the husband of the Petitioner submitted an application for grant of his release on furlough leave. It further shows that the brother-in-law of the Petitioner had expressed his willingness to stand surety for the Petitioner's husband, in case of his release. While considering the application, the report/opinion from the concerned police station, i.e. Newasa Police Station, was sought for. The concerned police station recorded negative opinion and the ground assigned was of previous conduct of the husband of the Petitioner. It is stated in the rejection order that the husband of the Petitioner in the year

2016 prayed for parole leave and he was expected to report to prison authorities on the due date but he misused the liberty granted to him and not only overstayed the parole period, but was brought back to the prison by effecting his arrest after 352 days. On this report, the application of the husband of the Petitioner was rejected.

3. In response to the notice, a detailed affidavit is also filed on behalf of the Respondent State through the Superintendent, Yerwada Central Prison, Pune. Perusal of the material placed before this court further shows that for the act of surrender to the prison authorities belatedly and overstay for a period of 352 days, the husband of the Petitioner was subjected to the jail punishment, i.e. the husband of the Petitioner is deprived of the remissions permanently.

4. Learned APP, Shri Yagnik, placing reliance on the affidavit as well as on the ground of rejection, i.e. overstay of the husband, opposes the petition and submit that no error is committed by the prison authorities while rejecting the application of the Petitioner.

5. Considering the above referred facts, we are of the opinion that the order impugned in the petition needs no indulgence of this court as it is based on a justifiable reason.

6. At this stage, learned Counsel, Mr.Jaiswal, appearing for the Petitioner submits that though it is not stated in the petition, the husband of the Petitioner post year 2016 made certain applications to the authority but on each and every occasion, the authority mechanically passed the order without considering the situation prevailing at the time of filing of

the application. Learned Counsel further submits that for the belated surrender, the husband of the Petitioner had suffered a jail punishment and the husband of the Petitioner may not be subjected to a repeated rejection on mechanical consideration of the application. Learned Counsel submits that the husband of the Petitioner be permitted to file application afresh to the prison authorities by raising an appropriate ground as per the provisions of law and the authorities be directed to consider the application on its own merits. There is considerable merit in the submission of Mr.Jaiswal.

7. Accordingly, the petition is partly allowed and disposed of. The order impugned in the petition requires no indulgence of this court. The husband of the Petitioner is permitted to file application afresh to the prison authorities within three weeks, if so advised. On receipt of such application, the prison authorities to pass appropriate orders on merits of the application and not to be influenced by the order of this court, not to pass the order on a mechanical approach that in the year 2016, the husband of the Petitioner, though was released, reported to the prison authorities belatedly. The said application be decided on merits, as early as possible.

8. With these observations, the petition is disposed of.

9. Authenticated copy of this order be supplied to learned Counsel appearing for the respective parties. Parties to act on the authenticated copy of this order.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)