

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3321 OF 2017

Ravi Dhiren @ Jadhav @ Rubi Ghosh ... Petitioner
Vs.
State of Maharashtra ... Respondent

Through Jail. None for Petitioner.
Smt. A. S. Pai, PP for Respondent-State.

**CORAM : S. S. SHINDE &
MILIND N. JADHAV, JJ.**

DATE : JUNE 17, 2022

P.C. :

. It appears that the petitioner was released on furlough on 20.02.2015 for 21 days and he was supposed to report back to the jail authority on completion of 21 days furlough. However, the petitioner overstayed for 167 days and thereafter surrendered to the jail authorities on 28.08.2015. Due to this, the concerned authority has forfeited the amount of Rs.40,000/-, which was deposited as a surety. Being aggrieved, this petition.

2. Learned APP, on instructions, submits that since the petitioner overstayed for 167 days, surety amount was rightly forfeited. Therefore, the petition may be rejected.

3. We have carefully perused the contents of the report dated 04.08.2017 prepared and signed by the Superintendent, Nashik Road Central Prison whereby in column 18, it is stated that the convict i.e., the petitioner, when released on furlough on 20.02.2015, overstayed for 167 days and therefore, his remission of three years has been deducted.

4. It appears that for overstay of the petitioner for 167 days upon his release on furlough, his remission of three years has been deducted and the amount of Rs.40,000/- furnished as surety has also been forfeited. It is well established in law that the person cannot be punished twice for the same offence committed by him. In that view of the matter, in our opinion, forfeiture of amount of Rs.40,000/- would amount to double jeopardy when the petitioner's remission of three years was deducted for his overstay of 167 days when he was released on furlough.

5. For the reasons aforesaid, we are of the opinion that the petitioner is entitled for refund of Rs.40,000/-. Hence, the following order:-

- a. The petition is partly allowed;
- b. The Superintendent, Nashik Road Central Prison, Nashik is directed to return / refund Rs.40,000/- to the petitioner within eight weeks from today;
- c. It is made clear that the petitioner will not be entitled to any interest on the said amount.

6. With the above observations, writ petition stands disposed of.

7. Registry shall send a copy of this order to the concerned jail authority, who in turn shall communicate the same to the petitioner.

(MILIND N. JADHAV, J.)

(S. S. SHINDE, J.)