

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

WRIT PETITION NO. 6698 OF 2021

Punya Chandu Chavan

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Mr. Prosper D'souza for the Petitioner.

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

.....

**CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.**

DATE : 21ST APRIL, 2022

P.C.:

1. Heard learned counsel appearing for the petitioner and learned APP.

2. A limited grievance is raised by the petitioner in the petition. The petitioner, who is convict No. 11059 and is suffering his life imprisonment and presently lodged in Yerwada Central Prison, Pune, submitted an application for grant of furlough leave on 1st September, 2021 to spend some time with his family members. The application was rejected vide order dated 4th October, 2021. Copy of the order is placed on record at Exhibit 11A.

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3. Learned counsel appearing for the petitioner invited our attention to the reasons assigned in the rejection order. In clause 3 of the grounds of rejection, a reference is made to belated surrender of petitioner.

4. A perusal of the rejection order shows that the petitioner is suffering his life imprisonment vide judgment and order of the learned Additional Sessions Judge, Pune in Sessions Case No. 31 of 1999 for commission of an offence under Section 302 of the Indian Penal Code. As per prison record, the petitioner availed parole leave in the year 2009. The petitioner was expected to surrender on the due date but petitioner remained outside the prison for considerable length of period and was brought back to prison by effecting his arrest on 22nd May, 2009 and as such the petitioner reported to prison after 2406 days. Assigning this reason of belated surrender, the prayer of petitioner was rejected.

5. Learned counsel for the petitioner vehemently submits that even though there was failure on the part of petitioner and petitioner was brought back to prison by effecting arrest, this

was a solitary instance in the year 2009 and petitioner certainly would have been subjected to prison punishment for belated surrender. Learned counsel, on instructions, submitted that even prior to rejection order, the petitioner made 2-3 attempts and on each occasion, the prayer of petitioner was rejected assigning the reason of belated surrender. Learned counsel further submits that the prison authority have acted with mechanical approach and not on preconceived notion that as on one occasion the petitioner surrendered to the prison authority belatedly, then on subsequent occasion also he would commit the same mistake. Learned counsel then submitted that if such approach is adopted, the beneficial provisions made for the prisoners would only remain in the rule book and in reality the prisoners would be deprived of such beneficial provisions.

6. We find considerable merits in the submission of learned counsel for the petitioner. Accordingly, the petition is partly allowed. This Court is not inclined to cause any indulgence in the rejection order challenged in the petition. The petitioner is permitted to file a fresh application to the prison authority to seek his appropriate remedy either for parole leave or furlough leave. If such application is filed by the petitioner within three

weeks from today, the prison/ competent authority to decide the application as early as possible on its own merits and taking into consideration the above referred observations of this Court.

7. The petition stands disposed of accordingly.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)