

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

CRIMINAL WRIT PETITION NO.3835 OF 2022

Amol S/o. Narayanrao Patange,	]	
Age : 24 yrs., Occ. Agriculture,	]	
R/o. Waranga (Phata), Tal. Kalamnuri,	]	
Dist. Hingoli	]	
At present lodged in Nashik Central Prison	]	.. Petitioner
Vs.		
State of Maharashtra,	]	
Through Superintendent,	]	
Nashik Road Central Prison	]	.. Respondent

Mr. Rajesh L. Dharap, Appointed Advocate for the Petitioner.

Ms. S.D. Shinde, APP for the Respondent-State.

CORAM : SUNIL B. SHUKRE & M.M. SATHAYE, JJ

DATE : 12TH APRIL, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. RULE. Rule made returnable forthwith. Heard finally, by consent of learned counsel for the petitioner and learned APP for the respondent-State.

2. It is seen that a Show Cause Notice was issued to the petitioner on 29th May 2022, thereby the petitioner was called upon to show cause as to why action be not taken against him for committing breach of the conditions on which he was granted parole, within seven days of the receipt of the notice.

There is nothing on record which shows that the Show Cause Notice was indeed received by the petitioner on 29th May 2022, although it is not in dispute that the show cause notice was received by the petitioner some time in last week of May 2022. Assuming that the show cause notice was indeed received by the petitioner on 29th May 2022, the period of seven days would expire on 4th June 2022. That means, no penal order before expiry of the period of seven days could have been passed by the Jail Superintendent. But, the impugned order, imposing penalty of forfeiture of cash surety of Rs.15,000/- upon the petitioner, has been passed before expiry of period of notice, that is, on 2nd June 2022.

3. This shows that there was arbitrariness on the part of the Jail Superintendent in not even allowing the petitioner to exhaust the time given to him for filing of his reply in the matter. Such an order is anathema to the principle of reasonableness running through Articles 14 and 21 of the Constitution of India like one single thread. The impugned order, therefore, must go. Accordingly, we pass the following order :-

- (i) Petition is allowed. The impugned order dated 2nd June 2022 is hereby quashed and set aside. The matter is remanded back to the Jail Superintendent, Nashik Road Central Prison for a decision afresh, after giving due opportunity of hearing to the petitioner.

- (ii) The final decision shall be taken by the Jail Superintendent by taking into consideration Rule 23A of the Remand Rules and also the law laid down by this court in the case of *Vishal Baban Vanne Vs. The State of Maharashtra*, 2019 ALL MR (Cri) 2259.
- (iii) The final decision shall be taken by the Jail Superintendent within a period of two weeks from the date of receipt of the order of this court.

4. Rule is made absolute in the above terms. Petition is disposed of.

[M.M. SATHAYE, J.]

[SUNIL B. SHUKRE, J.]