

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

CRIMINAL WRIT PETITION NO.104 OF 2023

Kawadu @ Kavish s/o Shankarrao Shirsagar

..vs..

State of Maharashtra and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.N. Mate, Advocate for the petitioner.

Smt. Nandita Tripathi, A.P.P. for the respondent/State.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATED : 10/02/2023.

Heard.

2. The petitioner a convict seeks for extension of parole leave, which was granted for 45 days on 13.12.2022 and then extended by 15 days.

3. It is the petitioner's contention that due to medical emergency of his wife, his presence is required and therefore, extension has been sought.

4. The petitioner was released on parole leave by the Prison Authority vide order dated 13.12.2022 and by subsequent order dated 23.01.2023, fifteen days extension has been accorded. Now, the petitioner is seeking for further extension for next 15 days. In terms of Rule 19(3)(C)(iii) of the Prisons (Bombay Furlough and Parole) Rules, 1959 the prisoners is eligible for 45 days of parole leave in a year, which can be extended upto 60 days once in three years only under the exceptional circumstances.

5. Obviously, the petitioner has already applied for second extension on 08.02.2023, however according to the petitioner it has not been considered. The learned Counsel for the petitioner attracted our attention to the extension order dated 23.01.2023 wherein while granting first extension, it was with a rider that no further extension would be accorded. As a matter of fact, the Authority cannot pre-judge the fate of second extension, which they ought to have decide on its own merits.

6. Certainly, we cannot assume the role of the Jail Authority in entertaining parole extension application. It is for the Authority to examine entitlement for second extension on its own merits.

7. In the circumstances, the petition is disposed of with a direction to the Authority to decide the petitioner's second extension application dated 08.02.2023 within a week from the receipt of this order.

8. We hereby made it clear that without regard to the rider put by the Authority in earlier extension order, they shall independently consider the petitioner's eligibility for second extension and decide the same in accordance with law.

CRIMINAL APPLICATION NO. 31 OF 2023.

1. The application stands disposed of since withdrawn with liberty to file an appropriate proceedings.