

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.218 OF 2024

Chandar Armogam Naykar .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

...

Ms.NSK Ayubi for the Petitioner.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 26th JULY, 2024

P.C:-

1. The Petitioner/Convict, as on date has undergone 12 years 8 months and 15 days of imprisonment, on being convicted for the offences punishable under Sections 302, 452 read with Section 34 of IPC and sentenced to suffer imprisonment for life alongwith fine. He was sentenced on 20/01/2009 and since then he is incarcerated in Mumbai Central Prison.

On being confined in jail, he was directed to be released on furlough leave on 30/12/2010 for a period of 15 days and he was expected to report back to the prison on 14/01/2011, but he overstayed for a period of 1124 days and in fact was required to be arrested and confined to prison on 11/02/2014.

2. For this conduct of his, prison penalty was imposed on him and his name as removed from the Remission Register.

In terms of the policy decision of the State Government, as contained in the Circular dated 07/10/2019, a Committee is constituted for considering the cases of the prisoners, who have been imposed with penalty for overstay on, either parole or furlough and it is open to the Committee to examine the entitlement of the prisoner, to be re-admitted to the remission system, dependent upon his behaviour in the prison as well as the factors like the reason of his abscondance, whether he is performing the duties assigned to him in the prison etc.

3. In the wake of the policy decision, since the Petitioner was admitted to the prison after a lapse of period of three years, but less than four years and he was required to be arrested, his case was due for consideration after eight years of his admission and though this period expired on 16/03/2022, his case was taken up by the Committee, on 02/01/2024 and there was no positive recommendation for inclusion of his name in the Remission Register for the following reasons, as indicated in the affidavit filed by the Superintendent, Nashik Road Central Prison on 03/04/2024.

“(a) after the petitioner was given leave, he overstayed and during said period the petitioner has committed another offence within the jurisdiction of Karad Police Station and offence was registered against him vide Kadar City Police Station C.R.No.54/2014 u/s.399, 402 of IPC.

(b) That the present Petitioner/Prisoner misconducted on 06.01.2020 by inflicting injuries on vital parts of his body viz. stomach, neck, chest, with pointed objects by his own hands. For his such misbehavior, he was given strict warning.

(c) Thereafter on 20.07.2020, the said Petitioner/Prisoner on account of minor reason misbehaved with the fellow prisoner Ganesh Devidas Shinde by throwing human excrement on his face and for his such behavior, he was given strict warning.”

Thus, the case of the Petitioner for his inclusion of his name in the Remission Register came to be rejected on 02/01/2024.

4. We have specifically taken note of the following statements in paragraphs 12 and 13 :-

“12. I say that the last incident of misbehavior was noted against the petitioner on 20/7/2020 and when he was produced before the committee, it has been observed that the behavior of petitioner is satisfactory since last three years.

13. I say that within next few days, the committee will take up the similar issue of other prisoners for same issue and the above-mentioned petitioner would be produced before the committee and the case of the petitioner may be consider again to find out if he fulfills the necessary criteria for being eligible for re-entering him name on remission register.”

In the wake of the undertaking in paragraph 13 that the Committee shall take up the case of the Petitioner, when it meet next, we dismiss the Writ Petition, by directing the Committee to take up the case of the Petitioner in its next meeting.

5. We would like to place on record the words of appreciation for Advocate NSK Ayubi, who on being appointed, effectively represented the cause of the Petitioner before us and we direct the Legal Services Authority to pay the legal remuneration due to her, within six weeks from today.

(MANJUSHA DESHPANDE,J.)

(BHARATI DANGRE, J.)