



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

CRIMINAL WRIT PETITION NO.237/2022

Shri Shyam S/o Pundlik Pimple,
aged about 48 Yrs., Occ. Prisoner,
At present Amravati Central Jail,
Distt. Amravati.

... Petitioner

- Versus -

1. State of Maharashtra,
through its Secretary, Home
Department (Prison),
Mantralaya, Mumbai 32.
2. Jail Superintendent/Jailor,
Amravati Central Jail,
Amravati Distt. Amravati.

... Respondents

Mr. P.H. Khobragade, Advocate (appointed) for the petitioner.
Mr. N.S. Autkar, A.P.P. for respondent Nos.1 and 2.

CORAM: NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 6.1.2025.

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Rule. Rule made returnable forthwith. Heard finally
by consent of learned Advocates for the parties.

2. The petitioner has filed this petition to set aside the
order passed by the respondent No.2 - Jail Superintendent,

Amravati Central Jail on 29.6.2011 whereby the petitioner's punishment was increased and in addition to it, he was sentenced to undergo 132 days i.e. in ratio 1:4; $33 \times 4 = 132$ days.

3. The petitioner is undergoing imprisonment for life for the offence punishable under Section 302 of the Indian Penal Code. In the year 2009 he was on parole for 30 days. During that period, daughter of the petitioner was ill and was suffering from typhoid hence he had filed an application for extension of parole for 30 days, which was granted. The extension was granted to take care of his ill daughter, however, his daughter was not recovered and he had stayed for more days and returned to Central Jail on his own on 7.5.2010. The respondent No.2 issued a show cause notice to the petitioner on 10.5.2010 calling an explanation for overstay of 33 days. The petitioner had replied to the said show cause notice stating the reason of his daughter's illness as she was suffering from typhoid and he had submitted the medical certificate about the ill-health of his daughter. The respondent No.2 rejected the explanation of petitioner stating

that typhoid fever can be recovered by consuming medicine alone and the admission in the hospital is not required. On 29.6.2011, the respondent No.2 passed an order and punished the petitioner by increasing the punishment by 132 days from petitioner's sentence as ratio 1:4 days was applied i.e. 33 days x 4 = 132 days. Being aggrieved by the said order, the petitioner has filed this petition.

4. The respondent No.2 has filed reply and submitted that the reason given by the petitioner is not satisfactory. It is contended that though the petitioner has stated that his daughter was suffering from typhoid, it can be treated at home and the family members can take care of her. Therefore, it is submitted that the respondent No.2 has rightly punished him. Hence it was prayed to dismiss the petition.

5. Heard both the sides and perused the record.

6. On perusal of the order passed by the respondent No.2 it appears that it is not disputed that the daughter of the petitioner was suffering from typhoid and he had submitted the medical certificate to the respondent No.2, however, said reason was not found satisfactory by the respondent No.2 and, therefore, punishment was imposed. The petitioner has stated that his daughter was suffering from typhoid and the said fact was supported with the medical certificate. The petitioner had also applied for further extension of 30 days which was not considered. According to the petitioner, there was nobody to take care of his daughter and, therefore, he stayed there and immediately after her recovery he had on his own returned to the Central Jail. It proves his honest intention and the reason is convincing. Hence we pass the following order:-

7. Petition is allowed.

The order passed by the respondent No.2 on 29.6.2011 is set aside.

The fees of the learned Advocate appointed for the petitioner be quantified as per Rules.

Rule accordingly.

(MRS.VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)