



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION No.645 OF 2024

(Rajendra s/o. Dharmaraj Giradkar Vs. State of Maharashtra, through Deputy Inspector
General of Prison, Eastern Region, Nagpur and another)

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

Court's or Judge's orders.

Ms. Shweta P. Chavhan, Advocate for petitioner.
Mr. I.J. Damle, APP for respondent Nos.1 and 2.

CORAM : NITIN W. SAMBRE AND MRS. VRUSHALI V. JOSHI, JJ.
DATE : 18th FEBRUARY, 2025.

1. Heard.
2. The challenge in the petition is to the order dated 6th June, 2024 passed by the learned District Judge thereby confirming the order passed by the Deputy Inspector General of Prisons imposing punishment of 1:5 for delayed surrender post parole/furlough.
3. The case of the petitioner is that on four occasions petitioner surrendered late by 15, 19, 54 and 4 days and as such punishment of 1:5 is awarded for overstaying as for a single day the petitioner has to undergo five days of additional imprisonment.
4. The counsel for the petitioner has sought to demonstrate from the record that his ailing mother is suffering from Hepatitis-C and in the family there is nobody to take care of her including that of making her attend the health facilities. It is claimed that on all these four occasions offence is not registered as the petitioner has surrendered voluntarily and in the light of

the law laid down by the Division Bench of this Court in the matter of **Gajanan Eknath Murle Vs. State of Maharashtra, (Criminal Writ Petition No.993/2016)**, the petitioner should have been awarded proportionate and not dis-proportionate punishment. It is sought to be demonstrated that all the five conditions in the matter of *Gajanan Eknath Murle* (supra) are duly established.

5. As against above, learned Additional Public Prosecutor would urge that the petitioner has formed a habit of overstaying on each occasion and there is no genuine justification for such overstay. The punishment awarded is in proportion to his overstay as is prescribed by the State Government under the Prisons Rules and that being so, the petition is devoid of merits and is liable to be dismissed.

6. The fact remains that from the record, the petitioner is able to demonstrate that his mother is suffering from hepatitis and is under the treatment of a doctor. The respondent pursuant to the order of remand passed by this Court ought to have placed on record the material to demonstrate that other than petitioner, there are family members, who are in a position to take care of ailing mother of the petitioner however the respondent has failed to do so and as such the burden to that extent is not discharged.

7. The medical papers placed on record justifies that the mother of the petitioner is under medical treatment for the ailment of Hepatitis-C.

8. Apart from above, there are no other complaints against the petitioner viz. his conduct in the jail.

9. Having regard to all seven conditions which are enumerated in the judgment of *Gajanan Eknath Murle* (supra),

we are of the view that in absence of there being any offences committed in Prison and his otherwise satisfactory conduct in the jail so also the period for which he has already undergone imprisonment, we deem it appropriate to reduce the punishment to 1:3. The petition, as such, stands disposed of in above terms.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)

Wadode