
(2003) 08 AP CK 0110
In the Andhra Pradesh High Court
Case No : Writ Petition No. 8638 of 2003

B. Bhaskar Rao

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 27-08-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 433B

Citation : (2003) 5 ALD 764

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : D. Raman Gopal, for the Appellant; Government Pleader for Home, for the Respondent

Judgement

L. Narasimha Reddy, J.—The petitioner was convicted for the offence under Sections 148 and 302 of IPC in S.C. No. 62 of 1982, in the Court of Sessions Judge, Nalgonda. He was sentenced to undergo life imprisonment. Consequently, he was admitted in Central Prisons, Hyderabad, on 24-6-1983. While he was serving the sentence, the petitioner was granted parole twice. On the ground that the petitioner had overstayed the parole, he was awarded certain punishments, such as, cut in remission and denial of certain facilities. Petitioner complains that the punishments so imposed are excessive and that but for the same, he would have been entitled for the benefit under G.O. Ms. No. 3 dated 17-1-1995 and other subsequent G.Os., in the matter of premature release from Jail and remission of sentences.

2. In the counter-affidavit filed on behalf of the respondents, it is stated that after the petitioner was admitted to jail on 24-6-1983, he was granted parole on 14-5-1984, for a period of one month. It is stated that the period under parole was extended up to 15-3-1985. They allege that the petitioner did not surrender and was apprehended only on 24-3-1989 and thereby over-stayed for 1468 days.

3. It is further alleged that the petitioner was granted parole for one month from 13-7-1990, through G.O. Rt. No. 1666, dated 8-6-1990. The period was said to

have been extended up to 4-9-1990. Instead of surrendering on 5-9-1990, the petitioner had overstayed and that he was apprehended only on 1-7-1999. The period of overstay this time was 8 years 9 months 27 days. It is stated that certain facilities, which were available to the prisoners for good conduct, were denied to him. It is also contended that the petitioner is not entitled to be released in view of the conditions contained in the various Government Orders providing for premature release.

4. Heard the learned Counsel for the petitioner and the learned Government Pleader for Home.

5. If at all anything, the case of the petitioner discloses the way in which the Government of Andhra Pradesh in the Home Department had reduced the Criminal Justice System to a mockery. Hardly, within one year from the date on which the petitioner was admitted to Central Prison, on having been sentenced to undergo life imprisonment, the Government has chosen to grant parole to the petitioner, and extended the same by another term of one months. It is strange that the petitioner could not be apprehended almost for five years.

6. Any responsible Officer, heading the Department, ought not to have entertained the application by the petitioner for grant of parole for the second time, since he had jumped the parole for five years. However, the then Secretary of the Home Department has chosen to grant parole through orders dated 13-7-1990, almost within one year from the date on which the petitioner was apprehended, after he jumped the parole for 5 years. The parole was also extended. Taking advantage of the friendly attitude exhibited by the Home Department of the State and the Police, the petitioner could remain outside the Jail for about 9 years. Ever since the conviction in the year 1983, the petitioner was in jail hardly for six years. This reflects on the functioning of the Home Department.

7. If the Department, as such, is averse to the convictions of the accused or the convicts being in jail, they can virtually seek the mandate of the people to scrap the relevant penal statutes. On one hand, hue and cry is raised in all available platforms, that the rate of convictions in the Criminal Courts is very insignificant, and that it is encouraging the criminals to go scot-free. On the other hand, when courts convict and sentence criminals, who were found to have committed serious and gruesome crimes, the Department has reduced the entire process to a ridiculous and futile exercise.

8. This Court places on record its clear disapproval of the attitude exhibited by the persons responsible for such outrageous acts. It should not be forgotten that persons are convicted not for the sake of it, but to protect the society from the outrageous activities, found to have been committed by them. Exhibiting sympathy and generosity to such criminals would send its own messages as regards the seriousness rather the lack of it, on the part of the State to maintain orderliness in the society.

9. As though the benefit availed by the petitioner, by ridiculing the entire system and State Organization, is not sufficient, the petitioner has come forward with a complaint that his fundamental rights guaranteed under the Constitution are defeated, on account of non-consideration of his case for premature release. The Government has been passing orders from time to time as regards the release of life convicts before they serve the entire sentence. While some orders are occasional in nature, others are general in application. The set of guidelines in this regard, which hold the field, as on today, are those contained in G.O. Ms. No. 17 Home (Prisons B-11) Department, dated 17-1-2003.

10. The guidelines provide the circumstances under which the life term prisoners can be considered for premature release by the Standing Committee constituted under the G.O. One of the categories of prisoners who are held not entitled for the benefit, are those who have availed the parole or furlough during the preceding 2 years and not surrendered in time or with any adverse report. Clause 5 of the G.O., reads as under:

"5. The following categories of prisoners though they are COVERED BY Section 433B of the CR.P.C. 1973 and Section 55 of the IPC 1860, are not eligible to be placed before the Standing Committee:--

(iv) Life convicted prisoners who have availed either parole or furlough during the preceding 2 years and not surrendered in time and/or with any adverse reports."

11. It has come on record that the petitioner has been granted parole twice and he has jumped the same for a period of 5 years on the 1st occasion and for a period of 9 years on the second occasion. Therefore, the case of the petitioner can be brought within the purview of the G.O.

12. So far as the complaint as regards the disproportionate infliction of punishment for overstayal of parole is concerned, it is not indicated as to which measure taken by the Jail authorities is in contravention of the relevant Rules. The respondents have stated that withdrawal of benefits to the petitioner is strictly in accordance with the rules. Hence, no relief can be granted to the petitioner, on this aspects. It is, however, directed that the respondents shall extend to the petitioner, such benefits, as he is entitled to in law from time to time.

13. The writ petition is disposed of accordingly. No costs.