
(2014) 07 BOM CK 0194

In the Bombay High Court

Case No : Criminal Writ Petition No. 444 of 2014

Shalik

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Citation : (2014) ALLMR(Cri) 3638

Hon'ble Judges : C.V. Bhadang, J;B.P. Dharmadhikari, J

Bench : Division Bench

Advocate : Priya S. Zoting, Advocate for the Appellant; A.S. Fulzele, APP, Advocate for the Respondent

Judgement

B.P. Dharmadhikari, J.—Heard Mrs. Priya Zoting, learned counsel (appointed) for the petitioner and Shri Fulzele, learned APP for the respondents. The petitioner has applied for parole leave sometimes in the year 2013, along with Doctor's certificate dated 17.07.2013. The Doctor has certified that wife of the petitioner was under his treatment from the very day i.e. from 17.07.2013. The illness mentioned cannot be made out. The learned counsel for the petitioner has stated that merely because on early occasion the petitioner has not returned back to prison in time, it cannot operate as a bar for grant of parole. She, however, points out that seriousness or chronic nature of illness is not in dispute and only on account of late reporting by 60 days, parole has been rejected. She relies upon Rule 19 of the Prisons (Bombay Furlough and Parole) Rules, 1959.

2. The learned APP relies upon the reply affidavit.

3. The respondents have not placed on record the recommendations of police authorities on the request of the petitioner. The petitioner is in jail since 09.06.2005. It, therefore, prima facie appears that after 2005, he may have been released on more than two occasions on furlough and also on parole leave. He appears to have reported back only once. The reasons for such late reporting again do not find consideration in the impugned order. We, therefore, find the

impugned order unsustainable. However, as already noted supra, the certificate issued on 17.07.2013 by the Doctor specifically states that the wife of the petitioner is ill and she needed about 60 days of regular treatment.

4. In this situation, we grant the petitioner leave to apply for parole/furlough leave, as the case may be, afresh with proper certificate (if required). If such an application is made by the petitioner within a period of three months from today, the respondents shall consider it afresh in accordance with law within a further period of four weeks.

5. With these directions and observations, writ petition is partly allowed and disposed of. The counsel charges are settled at Rs. 1,500/- (Rs. One thousand and five hundred only).