

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

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

Court's or Judge's orders

CRIMINAL WRIT PETITION NO. 819 OF 2015

BAPU KNANDU KOLI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Petitioner (Through Jail): Mr.Jadhav
Chetan T. (appointed).
APP for Respondents/State: Mr.B.L. Dhas.

...
CORAM : S.S. SHINDE & A.I.S. CHEEMA, JJ.
Dated: AUGUST 12, 2015

...
Heard learned Counsel for the petitioner and the
learned APP for the State.

2 At the outset, learned APP submits that, the
petitioner has been released on 11th August, 2015.

3 This petition has been filed for quashing FIR
No.16/2014 registered at Sindkheda Police Station, Tq.
Sindkheda, Dist. Dhule for an offence punishable
under Section 224 of the IPC for overstay on furlough of
132 days. There is also another prayer for
compensation. According to the learned Counsel for
the petitioner, the petitioner was unlawfully detained

from 5th October, 2013 to 23rd May, 2014 and, therefore, the petitioner may be compensated by respondent No.2. These are two principal prayers in the petition.

4 So far as prayer clause (B) is concerned, the learned Counsel for the petitioner submits that, since there is maximum punishment of two years for the said offence, which has already been undergone by the petitioner. In respect of prayer clause (C), his submission is that the petitioner was entitled to be released on 5th October, 2013. As a matter of fact, the order was passed by the competent authority on 4th July, 2014. However, the petitioner was not released in view of the interim order dated 9th July, 2014 passed by the Supreme Court in **Writ Petition (CRL.) No.48 OF 2014 (Union of India vs. V. Sriharan @ Murugan and ors.)** thereby restraining the State Governments from exercising power of remission to life convicts. Therefore, according to the learned Counsel for the petitioner, the petitioner is entitled for the compensation for the unlawful detention.

5 The learned APP appearing for the State submits that since the petitioner has already been released, further adjudication of this petition will lead to disputed questions of facts, which this Court may not entertain while exercising writ jurisdiction.

6 We have heard learned Counsel for the petitioner and learned APP for the State. We have carefully

perused the pleadings in the petition including prayer clauses (B) and (C) in the petition. In our opinion, while exercising writ jurisdiction, it is not desirable to appreciate the prayer of the petitioner for quashing FIR No.16/2014 registered at Sindkheda Police Station, Tq. Sindkheda, Dist. Dhule for an offence punishable under Section 224 of the IPC. The petitioner will have an opportunity at the appropriate time to approach before the appropriate forum.

So far as prayer clause (C) is concerned, adjudication of the said prayer would lead to disputed questions of facts inasmuch as, whether the detention of the petitioner was illegal or otherwise; whether the petitioner was entitled to be released on 5th October, 2013 or not. Therefore, we do not wish to exercise writ jurisdiction. However, it will be open to the petitioner to address representation to the competent authority or to initiate proceedings before the competent forum with the prayer for compensation.

7 In the light of above, the petition stands disposed of.

(A.I.S. CHEEMA, J)

(S.S. SHINDE, J)