

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4396 OF 2014

Ranjit Kumar Baleshwar Prasad Singh. ..Petitioner.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. N. N. Gavankar i/b Ms. Sharon Patole for the Petitioner.

Mr. S. K. Shinde, Public Prosecutor for the Respondent-State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **February 12, 2015.**

P. C. :

1. Heard. At the outset, Mr. Gavankar, learned Counsel appearing for the Petitioner states that the Petitioner is not pressing prayer clauses (a) and (c) and he is restricting this petition to the relief claimed in prayer clause (b).

2. By prayer clause (b), the Petitioner has sought to direct the respondent to grant *42 days of ordinary remission to the Petitioner for the period from 27-11-2006 to 29-05-2007.*"

3. The Petitioner herein was convicted on 26th November 2006 by the designated Court under various provisions of the Indian Penal Code, 1860 and the Terrorist and Disruptive Activities (Prevention) Act, 1985 and he was sentenced on 29th May 2007 to undergo R.I. for 9 years and to pay fine of Rs. 3 Lakhs i/d. R.I. for 4 years.

4. The petitioner has been granted ordinary remission from the date of sentence.

5. The petitioner, who was on bail was taken in custody on 26th November 2006 and sentence was awarded on 29th May 2007 ie about six months from the date of conviction. The petitioner has been granted ordinary remission from the date of the sentence. The grievance of the petitioner is that he is entitled for remission for the period from the date of conviction till the date of sentence. In the light of this contention, the only point falling for our consideration is whether the petitioner is entitled for remission from the date of conviction.

6 . In exercise by powers conferred by sub clause 5 of Section 59 of the Prisons Act, 1894, the Government of Maharashtra has framed the Maharashtra Prisons (Remission System) Rules, 1962. Rule specifies the classes of prisoners who are eligible for ordinary remission while Rule 8 provides the scale of ordinary remission. Rule 9 prescribes the procedure for calculating ordinary remission and provides that ordinary remission shall be calculated from the first day of the calendar month if a prisoner was sentenced on that day, and in any other case, from the first day of the calendar month next following the date of his sentence.

7. In the present case, the accused was convicted on 26th November, 2006. It is not in dispute that till the date of his conviction the accused was on bail and he was taken in

custody on the date of his conviction. Though the accused was sentenced on 29th May, 2007, he was admitted in jail on the date of the conviction . As fairly conceded by learned APP Shri Shinde, the accused being a convict, could not be considered as an under trial prisoner from the said period of detention between the date of conviction till the date of sentence. Consequently, the said period of detention cannot be equated with under trial detention. Since the accused was admitted in the prison from the date of conviction, in our view the sentence would relate to the date of conviction and the accused would be entitled for remission from the date of the admission in prison.

8. At this stage, we would like to refer to Rule 10 of Maharashtra Prisons Remission System Rules, which deals with ordinary remission in case of habitual prisoners. This rule provides that a habitual prisoner shall not be entitled to any ordinary remission during the period of six months **commencing from the date of his first admission into the prison.** This rule gives an indication that the period of remission has to be calculated from the date of first admission into the prison upon conviction.

9. As stated earlier, the Petitioner in the present case was convicted and was taken into custody on 26th November 2006. The said period cannot be construed as under trial detention and the same is also not excluded in terms of Rule 7 of Remission System Rules. Hence, in our considered view the petitioner would be entitled for remission

from the date of his admission into the prison upon conviction.

10. We, therefore, direct the Respondent – Authorities to calculate the ordinary remission to which the Petitioner is entitled taking into consideration the Petitioner's date of admission into prison.

. With above directions, writ petition is disposed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]