

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 8 OF 2016

Maruti s/o Soma Shinde **PETITIONER**

V E R S U S

The State of Maharashtra & Ors. **RESPONDENTS**

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Mr. A.S.Shelke, Advocate for Petitioner.

Mr. S.D.Ghayal, A.P.P. for R.No. 1 - State.

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CORAM : A.V.NIRGUDE &

INDIRA K. JAIN, JJ.

DATE : 8th MARCH, 2016

ORAL ORDER :-

. Learned A.P.P. agreed to take up this petition for final hearing without filing any formal reply.

2. The petitioner was an accused for the offence of murder and was undergoing life imprisonment. He was transferred in 2010 to the open prison. The petitioner's application for furlough leave was allowed and he even sought extended furlough leave for 14 days prior to 23/04/2012. The prison authorities were suppose to calculate the period for remission of sentence. While calculating the same, leave period of furlough as

well as extended leave period of furlough should be taken into account favourable to the prisoner. Learned counsel for the petitioner, therefore, asserted that the respondents/authorities should be directed to calculate remission accordingly.

3. Learned A.P.P. conceded that Rule 16 of the presence of [Bombay Furlough and Parole] Rules, 1959 is amended. But, the question that arises for our consideration is, whether this Rule should be applied retrospectively for the case of the petitioner.

4. Similar question arose for consideration before before 2 Division Benches of this Court in 2 different cases. In both these cases, learned Judges of this Court held that the State should exercise its power of remission construing the provision liberally in favour of the convict. While deciding this, the Judges of this Court placed reliance on the Judgment in the case of *State of Haryana & Ors. Vs. Jagdish reported in 2010 (4) SCC – 216*. We are also inclined to take similar view.

5. We allow present Writ Petition in terms of prayer cause 'B'.

6. Criminal Writ Petition stands disposed of.

[INDIRA K. JAIN, J.]

[A.V.NIRGUDE, J.]

