

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.245 OF 2016

Hanumant S/o Bhimrao Kawade

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mrs. Vaishali Chaudhari advocate appointed for the petitioner
Mr.S.J. Salgare, Assistant Public Prosecutor for Respondents

CORAM : R.M. BORDE &
K.L. WADANE, JJ

Dated : 13th APRIL, 2016.

PER COURT :-

1 The only prayer that needs to be considered is in respect of issuance of directions to the respondent – authorities to consider computation of period in respect of avilment of furlough granted to the petitioner for an extended period of 14 days referable to the period anterior to the date of enforcement of the amendment to Rule 16 of the Maharashtra Prisons (Bombay Furlough & Parole) Amendment Rules, 1959.

2 By virtue of amendment incorporated in Rule 16, it is prescribed that the furlough period shall be counted as remission of sentence. The amendment is enforced since 23.4.2012. The prison authorities have refused to grant the benefit of the

amendment in respect of grant of furlough for a period anterior to the enforcement of amended provisions of the Rules while computing the period in respect of remission of sentence of the petitioner.

3 The Division Bench of this Court at Bombay while dealing with Writ Petition No.1485/2013 in the matter of ***Jagannath Raghunath Shelke v. The State of Maharashtra & others*** decided on 24.1.2013 issued directions to the respondent-authorities that the petitioner therein be considered for grant of premature release and the remission shall have to be granted in terms of the judgment. It is observed in paragraph No.13 of the said judgment that when a case of life convict is considered for premature release on or after 23.4.2012, the benefit of amended Rule 16 of the said Rules will have to be given even in case of the extended period of furlough of 14 days granted prior to 23.4.2012.

4 In view of the judgment, as cited above, the identical relief claimed by the petitioner in the instant petition also deserves to be granted and it is accordingly being granted.

5 The petitioner shall be granted similar benefit and be

considered for premature release on considering his claim for remission in sentence in terms of the amended Rule 16 and the benefit shall be given in respect of the period anterior to 23.4.2012 also.

6 Mrs. Vaishali Choudhari, learned counsel appointed to assist the Court shall be paid legal remuneration of Rs.5,000/-.

(K.L. WADANE, J)

(R.M.BORDE, J)

vbd