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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.377/2016

Ekhnath Bapu Chougule (C-4643).
...Petitioner..

Versus

The State of Maharashtra.
...Respondent...

.....
Application received through jail.
Shri M.M. Nerlikar, APP for respondent.

.....

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

DATE: 31.03.2016

ORDER :

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 availment 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

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Rule 16 of the Maharashtra Prisons (Bombay Furlough and 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 24.1.22013 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

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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 benefits 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] It is noticed that in spite of the directions issued by this Court in the aforesaid writ petition decided at Bombay, the State authorities are not uniformly observing the directives in case of all the prisoners and as such almost every prisoner is required to approach this Court for securing the benefits.

7] The respondents including the Inspector General of Prisons of the State of Maharashtra are directed to take note of the aforesaid judgment delivered at Bombay and issue appropriate directions to the jail authorities in the State so that each individual prisoner entitled to

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claim benefits shall not be required to approach this Court.

8] Rule is accordingly made absolute.

(K.L. WADANE, J.)

(R.M. BORDE, J.)