

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

CRIMINAL WRIT PETITION NO. 574 OF 2016

Sk. Razzak Sk. Salim (C-9863) .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

Mrs.S.K. Doke, Advocate (appointed) for petitioner.
Mr. R.B. Bagul, A.P.P. for respondent Nos.1 to 4.

**CORAM : A.V.NIRGUDE &
V.K. JADHAV, JJ.**

DATED : 27.06.2016

P.C. :-

1. Heard. The petitioner is a life convict and is in custody since 1996. He was subsequently convicted for the offence of Murder. Now he is undergoing sentence. He has recently completed 14 years of imprisonment and therefore he is trying to come out of jail. In order to get remission in his sentence, he is trying to place reliance on a notification of 1997. During that year the Government declared that on account of 50 years of independence, convicts would be awarded some remission. In case of the petitioner and other life convicts, there is a provision of blanket two years' remission. The petitioner is taking advantage of the same.

2. In the reply, the petition is opposed by raising two points, namely (i) on the day of notification, the

petitioner was not convicted, but was under trial prisoner and (ii) it is said that for some other reason, the petitioner has lost his hope of remission.

3. The first point that is required to be decided is whether the under trial prisoner on the day of notification is entitled to its benefit. This Court has taken a view in judgment of Rajubhau Gaddalwar Vs. The State of Maharashtra & Anr (Cr.W.P.244 of 2008-Nagpur Bench) that benefit of this notification should be extended to even under trials, who were subsequently convicted and sentenced to suffer imprisonment. We have, therefore, no difficulty in coming to the conclusion that notification referred to above of 1997 could have come to the petitioner's help, but, other aspect of the case is about petitioner's conduct. On three occasions, the petitioner jumped parole/furlough leave. On one occasion, he remained away from jail for 1335 days beyond his furlough leave.

4. The Government has considered such cases and has issued rules from time to time. If a convict jumps parole or furlough leave, the rule is that his remission is reduced to certain extent. Without going into merits of the petitioner's case, we hold that the petitioner will have to suffer such penalty as may be prescribed to

him because of his jumping of parole/furlough leave.

5. The writ petition stands dismissed.

6. Learned Counsel appointed for the petitioner shall be paid professional fees as per rules.

[V.K. JADHAV, J.]

[A.V.NIRGUDE, J.]