

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 901 OF 2016

Ravindra s/o Krishnasingh Rajput,
Age : Major, Occu. Prisoner
Convict No. 4588, R/o at present
in Open Prison, Paithan,
District Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra,
through Secretary,
Home Department,
Mantralaya, Mumbai
2. The Inspector General
of Prisons,
Maharashtra State,
Pune
3. The Superintendent of Open Prison,
Paithan, District Aurangabad

RESPONDENTS

Mrs. Bharati B. Gunjal, Advocate (appointed)
for the petitioner
Mr. K.S. Patil, A.P.P. for the respondents

CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.

DATE : 23rd August, 2016

ORAL JUDGMENT (PER : S.S. SHINDE, J.) :

Rule. Rule made returnable forthwith. With
the consent of the learned counsel for the parties,

heard finally.

2. This petition is filed seeking directions to respondent No. 3 to consider the extended period of furlough granted in favour of the petitioner prior to 23rd April, 2012, as remission.

3. The learned counsel appearing for the petitioner, during the course of arguments, placed reliance on the Notification dated 23rd April, 2012, issued by the Home Department, Government of Maharashtra, Mantralaya Mumbai notifying the amended Rule 16 of the Prisons (Bombay Furlough and Parole) Rules, 1959, which reads thus:-

"16. Furlough to be counted as remission of sentence. - The furlough period of two weeks and extended furlough of 14 days shall be counted as a remission of sentence."

4. The Division Bench of this Court at Principal Seat, in the case of *Jagannath Raghunath Shelke Vs. The State of Maharashtra and others*, in Criminal Writ Petition No. 1485/2013, decided on 24th December, 2013

and the Division Bench of this Court at Aurangabad Bench, while deciding *Criminal Writ Petition No. 211/2014 (Sayyed Shaukat Sayyed Kashim Vs. The State of Maharashtra and others)* on 2nd July, 2014, had an occasion to consider the said amended Rule 16. The Division Bench of this Court directed the respondents therein to consider the prayer of the petitioner to treat the extended period of furlough as remission while considering the case of the convict for his premature release, taking recourse to the above mentioned amended Rule 16. Accordingly, we propose to follow the same course in the present case.

5. In the light of above, respondent No. 3 is directed to consider the prayer of the petitioner to treat the extended period of furlough as remission, while considering the case of the petitioner for his premature release, taking into consideration the aforementioned amended Rule 16 of the Prisons (Bombay Furlough and Parole) Rules, 1959. Such exercise shall be completed by respondent No. 3 as expeditiously as possible; however, within a period of two weeks from today.

6. The learned A.P.P. assures this Court that this order will be communicated to the respondents by fastest mode of communication through the office of the Public Prosecutor at High Court of Bombay, Bench at Aurangabad.

7. Needless to observe that since Smt. Bharati B. Gunjal, Advocate is appointed in this matter as Amicus Curiae to prosecute the cause of the petitioner through the High Court Legal Services Sub Committee, Aurangabad, her fees shall be paid by the said Committee as per the Schedule of Fees maintained by the said Committee.

8. The Criminal Writ Petition stands allowed and disposed of in the above terms. The Rule is made absolute accordingly.

[SANGITRAO S. PATIL]
JUDGE

[S.S. SHINDE]
JUDGE

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