

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

CRIMINAL WRIT PETITION NO. 992 OF 2016

SHERSING NANAKSING GIL
VERSUS
THE STATE OF MAHARASHTRA AND ANR.

...
Advocate for petitioner :Mr. A.V. Patil
APP for respondent/State : Mr. A.R. Borulkar

...
CORAM: S.S.SHINDE & SANGITRAO S. PATIL, JJ.
Dated: October 18, 2016

...

Heard the learned counsel appearing for the petitioner and the learned A.P.P. appearing for the respondent/State. With their able assistance, we have perused the pleadings and grounds taken in the petition, annexures thereto, reply filed by the respondent and the other documents placed on record.

2. The learned counsel appearing for the petitioner submits that the deduction of remission on account of overstay of the petitioner is not justified. There is

valid reason for overstaying and the petitioner on his own reported back to the jail authorities. Therefore, the respondent should not have deducted the remission on account of overstay by the petitioner.

3. On the other hand, the learned A.P.P. appearing for the respondent/State, relying upon the averments in the reply, submits that the respondent authority has considered the relevant rules, and in particular, rule 4(10) of the Prisons (Bombay Furlough and Parole) Rules, 1959.

4. The point/issue raised in this petition is no longer res integra and is covered by the judgment of the Division bench in the case of **Buwaji Sahadeo Hazare V/s The State of Maharashtra in Writ Petition no.2477 of 2015, decided on 24th June, 2015**. In that case also, there was similar challenge. The Division Bench has considered the similar fact situation and rejected the prayer of the petitioner therein, with the observations that the cases of late surrender by the prisoners are on increase. It is, therefore, necessary that the tendency to disrespect the rule of law by the

prisoner needs to be curbed. As already observed in the facts of the present case, the petitioner has overstayed for long period of 855 days and by any stretch of imagination, such overstay cannot be countenanced. No case is made out to entertain the petition. The petition is rejected.

5. Since, Mr. A.V. Patil, the learned counsel is appointed as Amicus Curie to prosecute the cause of the petitioner, his fees be paid as per the schedule of fees maintained by the High Court Legal Services Sub-Committee Aurangabad.

(SANGITRAO S.PATIL, J) (S.S. SHINDE, J)