

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1121 OF 2016

Rajesh s/o Laxman Datela
Age : 38 years, Occu.: Convict No. 4300,
R/o : At present Open Central Prison Paithan,
Dist. Aurangabad.

VERSUS

1. The State of Maharashtra,
Through Secretary, Home Department,
Mantralaya, Mumbai - 32.
2. The Inspector General/
Deputy Inspector General of
Prison, Central Prison, Aurangabad.
3. The Superintendent of Police
Office of Superintendent of Police
Open Central Prison, Paithan,
Dist. Aurangabad.

CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.

DATE : 16TH DECEMBER, 2016.

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

1] Rule. Rule made returnable forthwith. This petition is filed with the following substantive prayer :-

- B) By issuing writ of mandamus or in like nature the respondent authorities may kindly be directed to consider the request of petitioner and furlough extended period should be considered as remission in sentence.

2] Learned counsel for the petitioner invites our attention to the order passed by the Division Bench of this Court in the case of **Eknath Bapu Chougule Vs. The State of Maharashtra in Writ Petition No. 377 of 2016**,, decided on 31.3.2016 and submits that the issues/points raised in the writ petition are no longer res-integra and covered by the authoritative pronouncement of the Division Bench in the case of **“Jagannath Raghunath Shelke Versus The State of Maharashtra & others” in Writ Petition No. 1485 of 2013 decided on 24.1.2013**, of which reference is made in para.3 of the aforesaid judgment.

3] In that view of the matter, he submits that period of 2 weeks of extended furlough granted in favour of the petitioner deserves to be counted as remission.

4] Learned APP for the State fairly concedes that the issue raised in this petition is no more res-integra and covered by the judgment of the Division Bench of this Court in the case of Jagannath Shalke (supra). It is not necessary for us to enter into greater detail of all the facts of the case. Suffice it to say that, indisputably, the concerned authority has extended the period of furlough by 15 days and in view of the judgment of the Division Bench of this Court in the case of Jagannath Shelke (supra) the said period needs to be counted while counting the remission. This Court in the case of **Eknath (supra)** in para. 3 has held thus :-

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 24.01.2013 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 23.04.2012, benefit of amended Rule 16 of the said Rules will have to be given even

in case of extended period of furlough of 14 days granted prior to 23.04.2012.”

5] In that view of the matter, in the present case also, the ratio laid down in the case of Jagannath Shelke is applicable. Consequently, the extended period of furlough is required to be considered as remission while reckoning the period of sentence undergone by the petitioner.

6] For the aforesaid reasons, writ petition is allowed. Rule is made absolute in terms of prayer clause (B). Petition is disposed of.

[K.K.SONAWANE]
JUDGE

[S.S. SHINDE]
JUDGE

grt/-