

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI.W.P. 4971 OF 2015**

Bhimrao Sadhu Jadhav
C/658, Age 56 years,
Presently lodged in Kolhapur
Central Prison, Kalamba, Kolhapur .. Petitioner

Vs.

The State of Maharashtra & Ors. .. Respondents

....
Mr.Umesh Pawar Advocate for Petitioner
Mrs. G.P. Mulekar APP for State
....

**CORAM : SMT.V.K.TAHILRAMANI ACTING C.J.
AND M.S.SONAK, J.**

DATED : AUGUST 03, 2018

ORAL JUDGMENT [PER SMT. V.K.TAHILRAMANI, ACJ.]:

1 Heard both sides. Rule. By consent, Rule is made returnable forthwith and matter is finally heard.

2 The prayer in this petition is for setting aside the prison punishment of cutting of remission imposed on the petitioner.

3 The petitioner preferred an application for parole

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which was granted on 6.4.2000. Pursuant to the said order, the petitioner was released on parole on 23.6.2000 for a period of 30 days. The said period was thereafter extended for a further period of 30 days. Thus, the petitioner had to surrender back to the prison on 22.8.2000, however, the petitioner did not surrender back in time and ultimately he was traced and was arrested by the police and was brought back to the prison on 24.9.2005. Thus, there was overstay of 1859 days on the part of the petitioner on account of which prison punishment of cutting of remission of 5 days for each day of overstay was imposed. Being aggrieved by the said order, the petitioner preferred the present petition.

4 Learned counsel for the petitioner submitted that the father of the petitioner met with an accident for which he was under medical treatment for six months i.e. from 15.7.2000 to 20.1.2001 and thereafter the father of the petitioner, expired on 11.2.2002, hence, the petitioner could not report back to the prison in time. As far as this ground is concerned, it is seen that the wife of the petitioner was very much there to take care of the father

of the petitioner. There were also children of the petitioner who were of marriageable age, who could have taken care of the father of the petitioner. Moreover, during the period from 15.7.2000 to 20.1.2001, the petitioner was very much available to take care of his father. We may also mention that the medical certificate relied upon by the petitioner to show that the father of the petitioner was operated and was under medical treatment from 15.7.2000 to 20.1.2001, was procured from one private Doctor on 17.2.2015 i.e. 14 years later. It does not mention when the operation took place and where and the nature of the operation. The wordings in the said certificate and the date of the said certificate, do not inspire any confidence about the genuineness of the said certificate. The learned counsel for the petitioner also tried to submit that the petitioner did not surrender in time as the marriage of his daughter was to take place. However, no marriage invitation card has been annexed and what is annexed is just a photocopy of some list, which is dated 25.2.2004. The father of the petitioner was purportedly under treatment till 20.1.2001. In such case, the petitioner ought to have surrendered in January 2001

but he did not and he was traced and arrested by the police on 24.9.2005 and brought back to the prison. Had the petitioner not been arrested by the police, he would have remained absconding. The reason of medical treatment of his father also does not appear genuine. Looking to all these facts and the fact that there was inordinate overstay on the part of the petitioner, we are of the opinion that no case is made out for interference, hence, the petition is dismissed. Rule is discharged.

M.S.SONAK, J.

ACTING CHIEF JUSTICE