

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO.945 OF 2019**

Sadashiv Krishna Tare

.. Petitioner

**Vs.**

State of Maharashtra & Ors.

.. Respondents

.....  
Mr.Amit Mane, Advocate for the Petitioner.  
Mrs.P.P. Shinde, APP for the Respondent-State.  
.....

**CORAM : B. P. DHARMADHIKARI AND  
PRAKASH D. NAIK, JJ.**

**DATE : MARCH 25, 2019.**

**P.C.:**

Petitioner-convict who is over 65 years of his age claims benefit of policy decision dated 10<sup>th</sup> January, 2016, which directs release of such prisoners. Learned APP has pointed out that when he was released on parole leave on 3<sup>rd</sup> May, 1997, he absconded and was required to be arrested and brought back. He was brought back on 22<sup>nd</sup> January, 2008, and, thus, there is over stay of 3885 days. Hence, his name has been permanently removed from Remission Register.

2            Learned counsel for petitioner submits that the respondents are looking into period spent in prison only from the date of judgment of

the trial Court. Period prior thereto when he was arrested and detained during trial has been overlooked. Unfortunately, judgment of trial Court does not contain any directions in this respect and, in Appeal, this Court has directed to treat the said period as per order of trial Court.

3            Learned APP submits that orders of trial Court upheld in Appeal under Section 374(2) of Code of Criminal Procedure by this Court cannot be interfered with in this jurisdiction. She further submits that on 11<sup>th</sup> October, 2018, the Circular has been issued, which envisages reinstatement of prisoners like petitioner back on Remission Register. According to her, meeting of Competent Committee for said purpose is scheduled after every six months and case of petitioner is likely to be considered shortly.

4            In the wake of change in policy, as it is apparent from Circular dated 11<sup>th</sup> October, 2018, we are not inclined to record any finding on any disputed issue. We permit State Government to examine the eligibility of petitioner for said purpose in accordance with law.

5            We, accordingly, direct respondents to complete the exercise within three months from the date of communication of this order to respondent no.1.

6           We permit petitioner to point out period actually spent in jail after his arrest in the matter, so as to enable said Authority to calculate the correct period of imprisonment. Petitioner shall make appropriate representation to respondent no.1 in this respect with copy of this order within two weeks from today.

7           With these directions and keeping all contentions open, we dispose of the present petition.

8           Copy of this order be communicated to the petitioner in jail.

**(PRAKASH D. NAIK, J.)**

**(B.P. DHARMADHIKARI, J.)**