

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

WRIT PETITION NO.1592 OF 2019

Surajsingh@ Ashish Jileदार Singh

...Petitioner

vs.

The State of Maharashtra

...Respondent

Ms. Shivani S. Kunder for the Petitioner.

Ms. M.H. Mhatre, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.**

DATE : 11/06/2019.

P.C.:

. Learned counsel (appointed) for prisoner and learned APP.

2. Applicant seeks remission in terms of government resolution dated 3/6/2017 on account of 125th Birthday Anniversary of Dr. Babasaheb Ambedkar.

3. Respondent State has denied it as the said policy is applicable to prisoners in jail on 14/4/2016 and present applicant has been convicted on 5/8/2016. The applicant who was arrested on 2/4/2014 in Crime No.73/2014 was tried in Sessions Court at Mumbai in Sessions Case No.486/2014. That court has convicted him on 5/8/2016 for offence punishable under sections 392 and 397 of IPC and imposed upon him punishment of 5 years, 7 years and fine of Rs.1,000. Calculation made by the State Government are made available for our perusal. Learned APP submits that he was an under-trial prisoner for two years four months and 3 days and after 7/8/2016 till 31/5/2019 he spent 2 years 9 months and

27 days in prison. This chart is taken on record and marked Exhibit A.

4. The policy decision dated 4/6/2017 shows that it is applicable to persons who were out of jail on parole or furlough. We find that mention of parole and furlough in policy decision is by way of illustration and it is not exhaustive. 14th April is the date of birth of Dr. Babasaheb Ambedkar and hence policy decision makes remission applicable to those who were in jail on that day. The present applicant was an under trial prisoner on said date as he was arrested on 2/4/2014 and was not released on bail thereafter till his conviction on 5/8/2016.

5. We therefore find applicant entitled to the benefit of said remission.

6. Accordingly, we direct respondent/State to extend to him benefit of the policy decision and to calculate period of his imprisonment accordingly.

7. If thereafter it is found that he has already completed period of imprisonment he shall be released forthwith, if his custody is not required in any other matter.

8. The exercise of calculation shall be completed within a period of 6 weeks after communication of this order.

9. Writ petition is partly allowed and disposed of.

10. Copy of this order be served upon the prisoner in jail.

(SANDEEP K. SHINDE, J.)

(B. P. DHARMADHIKARI, J.)