

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

WRIT PETITION NO.4239 OF 2019

Ramlal Devappa Rathod ... Petitioner
Vs
The State of Maharashtra & Ors. ... Respondents
...

Mr. Kishor Walanju (App. Adv.) for the Petitioner.
Mrs. M.H.Mhatre, APP for the Respondent-State.

**CORAM : B.P.DHARMADHIKARI &
SANDEEP K. SHINDE JJ.**
DATE : SEPTEMBER 30, 2019

P.C. :

*Heard learned counsel (appointed) and the
learned APP for the State.*

2 *Prisoner was sentenced on 6th January, 2001 to
life imprisonment. During the pendency of appeal before
this Court, he was given parole on 20th November, 2004 for
a period of 30 days. He was expected to report back on 20th
December, 2004 but he came back on 30th June, 2006.
Thus, he has overstayed for about 557 days.*

3 *It appears that in the meanwhile, his Criminal*

Appeal No.885 of 2001 was allowed on 30th June, 2006 itself and he was acquitted. So after acquittal, he reported back.

4 *The acquittal was questioned before the Hon'ble Apex Court and in Appeal No.1957 of 2008, on 28th January, 2017, conviction was restored. He, therefore, reported back in prison.*

5 *He was then given show-cause notice and his explanation for keeping away from the prison for 557 days was called for. He submitted his reply and pointed out that his parents were unwell. He was required to look after them. He also explained that old medical papers were not preserved and are not available.*

6 *This explanation has not been accepted and his name is permanently removed from remission register. This order of removal passed on 30th January, 2019 has been questioned before this Court.*

7 *We have heard respective counsels and we find that prisoner had reported back on 30th June, 2006 and thereafter after adverse judgment of the Hon'ble Apex*

Court in 2017 itself. His explanation that papers of treatment of parents have not been preserved cannot be lightly brushed aside as papers are demanded after more than 13 years.

8 *However, fact remains that on 30th June, 2006, he reported to the prison after he was acquitted by this Court.*

9 *In this situation, we find that interest of justice can be met with by deducting his remission for 557 days, i.e., one day remission cut for each day of delay.*

10 *Accordingly, we modify the order dated 30th January, 2019. Removal of name from the remission register is quashed and set aside and authorities are permitted to deduct his remission of 557 days.*

11 *Petition is thus, partly allowed and disposed of .*

Order be communicated to the prisoner in jail.

(SANDEEP K. SHINDE, J.) (B.P.DHARMADHIKARI, J.)