

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4754 OF 2019

Shaktisingh Deepaksingh Dudhani ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. Amol Jagtap h/f Mr. Talukdar for the petitioner.

Mr. Arfan Sait, APP for the State.

Mr. N.M. Kamble, Jailor, Yerawada Central Prison, Pune persent.

**CORAM : B.P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.**
DATE : OCTOBER 11, 2019

P.C.:

This court has issued notice on 24/09/2019. Learned APP has in the wake of urgency of the matter, assisted the court by obtaining instructions and by keeping the officer present in the court.

2. Petitioner is seeking benefit of remission scheme.
3. After hearing respective counsel, we find that the petitioner was given life imprisonment in Sessions Case No. 694 of 2011 on 30/10/2014. He approached this court in Criminal Appeal No. 930 of 2014 and on 09/01/2018 this court has altered his

conviction to 304 Part II IPC and has been sentenced to suffer RI for 10 years.

4. In ignorance of this order of the High Court, the District Judge and Additional Sessions Judge, Pune has submitted the appraisal report in negative in so far as benefit of 125th anniversary remission scheme is concerned.

5. Learned APP submits that because of this error, the respondent has submitted a letter with necessary papers to the convicting court and sought a fresh appraisal report.

6. The nominal role produced by the learned APP shows that the petitioner has till 30/09/2019 undergone 8 years, 2 months and 13 days of actual imprisonment. With the remission, the said period works out to 9 years, 8 months and 18 days. Thus he has to undergo little over 2.1/2 months more as per this nominal role.

7. It is not in dispute that as per the remission scheme floated on account of 125th birth anniversary of Dr. Babasaheb Ambedkar, petitioner is entitled to remission of three months.

8. Learned APP is therefore, requesting the Court to issue time bound directions so that the appraisal report can be received by the respondents and then respondent no.3 can take suitable decision accordingly.

9. We find that obtaining of fresh appraisal report and passing of orders afresh may itself take the period in excess of three months. The nominal role produced by the learned APP shows that the petitioner has during the period of imprisonment reported back late by 6 days and for that 6 days cut in remission has been ordered. However, this conduct is not so serious as to deny him the benefit of remission scheme. In this situation, taking overall view of the matter, we are inclined to hold that the petitioner is entitled to the benefit of three months remission. We find that as per the terms of the policy decision dated 3/6/2017 as the petitioner has to suffer 10 years of imprisonment, is entitled to ninety days remission. We therefore, direct the respondent to extend that benefit to the petitioner and release him forthwith from the jail.

10. This petition is partly allowed and disposed of.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)