

rkm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4766 OF 2019

Kishor Raghunath Gaikwad	]	..	Petitioner
vs.			
The State of Maharashtra	]	..	Respondent.

Ms.Manisha Devkar, for the Petitioner.
Mr.S.S.Pednekar, APP for the State.

**CORAM : B. P. DHARMADHIKARI &
N.R.BORKAR, JJ.**

DATE : 6TH DECEMBER 2019.

P.C.:

- 1] Heard learned counsel (appointed) and learned APP.
- 2] Effort of the Petitioner is to seek order of release and for that purpose he is requesting to treat the period during which he was away from prison as period therein so as to enable him to get remission therefor.

3] Learned APP has produced nominal role which shows that in Sessions Case No.207/1998 on 31st March, 2003 he has been sentenced to life imprisonment. As per the nominal role, till 31st July, 2019 after excluding period of abscondence, he has put in 6 years, four months and 24 days. He was released earlier on 23rd November, 2005 on 14 days leave. He had absconded and was required to be arrested and brought back. He was brought back on 13th October, 2006 and thus he was out for about 309 days. On third occasion, he was released on parol for 60 days. On 27th September, 2008 he again absconded. Police arrested him and brought back on 15th January, 2019 i.e. after 3671 days. Thus, period of his abscondence is more than 12 years.

4] Learned counsel (appointed) has submitted that the petitioner and his wife, both are HIV patients and most of the time the applicant was in hospital. Learned APP has produced before the Court the health report certified by Chief Medical Officer, Yerwada Central Prison dated 5th December, 2019 which shows that the patient is presently stable.

5] Learned APP pointed out that name of the Petitioner has been removed permanently from the permission register and order passed for that purpose has not been questioned. If the Petitioner was given an opportunity and he had submitted necessary documents in support of his illness, if needed evaluation in that order. Filing of those documents, is, therefore, not apparent.

6] In this situation, we direct respondent to supply to Petitioner copy of said order alongwith show cause notice and reply (if any) submitted by the petitioner thereto within four weeks from today. We grant Petitioner leave to challenge that order in accordance with law.

7] With these observations and liberty, we dispose of the present Petition. Order be communicated to the Petitioner in jail.

[N.R.BORKAR, J.]

[B.P. DHARMADHIKARI, J.]