

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5204 OF 2019**

Akram S. Hakka ... Petitioner
V/s.
The State of Maharashtra and ors. ... Respondents

Mr. Amit A. Mane (Appointed Advocate) for the Petitioner.
Smt. S.D. Shdine, APP for the Respondent - State.

**CORAM : B.P. DHARMADHIKARI &
N.R. BORKAR, JJ.
DATE : DECEMBER 09, 2019.**

P.C.

1] The petitioner - prisoner was released on furlough leave on 28th May 2005 and did not report back on scheduled date. He was required to be arrested and brought back after about 382 days. For this late return, remission cut of 382 days has been ordered and his name has been permanently removed from the remission Register.

2] This order of punishment has been passed on 15th April 2019.

3] Nominal role produced by learned APP show that till 30th September 2019, after excluding above mentioned period of

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382 days, the prisoner has put in about 20 years 3 months and 7 days in prison.

4] During hearing, we have also come across a Notification dated 2nd August 2011 which points out the Rule 23A added to the Maharashtra Prisons (Remission System) Rules, 1962 (for short “1962 Rules”).

5] As per these Rules, if period of late reporting is up-to 6 months, remission cannot be given for three years. However, if period exceeds 6 months, remission has to be cut permanently.

6] Here, apart from prison punishment of cut in remission of 382 days, his name has also been removed from the remission Register for 12 years.

7] The chart produced by learned APP at Exhibit-A that excluding period of 382 days, the prisoner has already put in actual imprisonment in excess of 16 years. His past remission is of about 3 years and 8 months. It, therefore, appears that

even this period of removal of name from remission Register of 12 years has expired.

8] Nominal role does not show that he was either released on parole or furlough after 29th June 2006.

9] It is settled law that the provisions which are beneficial to the prisoner apply.

10] We, in this situation, without observing anything on merits, direct the authorities to consider the order dated 15th April 2019 afresh and pass suitable order. The order shall be passed within three months from the date of communication of this order to the respondent authorities.

11] Thus, the Writ Petition is partly allowed.

12] This order shall be communicated to the petitioner - prisoner in jail.

13] Parties to act on the authenticated copy of this order.

(N.R. BORKAR, J.)

(B.P. DHARMADHIKARI, J.)