

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

WRIT PETITION NO.3673 OF 2018

Somnath Gangaram Shinde

...Petitioner

vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Madan J. Gupta for the Petitioner.

Mr. K. V. Saste, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI,
ACTING CHIEF JUSTICE &
N. R. BORKAR, J.**

DATE : 5/3/2020.

P.C.:

1. Heard learned counsel(appointed) for the petitioner and learned APP for Respondent/State. The petitioner is in prison since 8/1/2003. Challenge is to imposition of cut in remission by using highest/maximum penalty. Learned counsel submits that ill-health of wife constrained the petitioner to report late.

2. Learned APP submits that on first occasion though there is cut in remission by imposing maximum punishment, on second occasion lessor punishment has been imposed. He also pointed out that on last occasion only warning was issued. He also states that in 2011, guidelines have been issued to introduce uniformity into this punishment.

3. The details of days of delay and punishment can be seen below:

Sr. No.	Year	Days of delay	Remission forfeiture per day	Remission forfeiture
1.	2006	02	05 x 02	10 days
2.	2008	69	04 x 69	276 days
3.	2010	13	05 x 43	215 days
4.	2012	12	05 x 42	210 days
5.	2015	01	----	Strict warning

4. Thus, for initial two days delay maximum punishment has been selected while in next order for delay of 69 days lessor punishment has been imposed. Two instances of late return thereafter again show lessor period of delay but then maximum punishment. We ignore last occasion as there is delay of only one day and the Authority has issued strict warning. It appears that in absence of any uniform policy, the authorities have used their power and in the process the petitioner suffered excess punishment at least on two occasions.

5. Taking overall view of matter, we find that interest of justice can be met with by permitting remission cut of 2 days for each day of delay.

6. Accordingly, for total delay of 156 days we permit the respondents to deduct 312 days of remission.

7. Punishment is accordingly modified.

8. Order be served upon the prisoner in jail. The petition is disposed of.

(N. R. BORKAR, J.)

(ACTING CHIEF JUSTICE)