

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5268 OF 2019**

Lahu S. Dalvi ... Petitioner
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. N.N. Gawankar a/w. Mr. Manas N. Gawankar for the
Petitioner.
Dr. F.R. Shaikh, APP for the Respondent – State.

**CORAM : B.P. DHARMADHIKARI &
N.R. BORKAR, JJ.
DATE : JANUARY 27, 2020.**

P.C.

1] The petitioner – convict presently about 81 years old submits that he has already put in more than 14 years of actual imprisonment and therefore, as per Government Policy dated 10th January 2006, he is entitled to be set free.

2] Learned APP does not dispute the policy. However, he has invited our attention to nominal roll to show that as on 30th October 2019, the prisoner had put in only 13 years, 4 months and 4 days of actual imprisonment. Thus, he has to complete 14 years and thereafter only his release can be ordered.

3] Today, the prisoner has taken out a note for amendment *inter alia* submitting that after his arrest on 28th June 1987, the prisoner was not granted bail for more than 6 months. The contention is that in nominal roll the period spent as under-trial prisoner has been wrongly recorded as 1 month 15 days. According to learned counsel for the petitioner, it has to be 6 months and 15 days.

4] Learned APP is seeking time to verify these facts.

5] The nominal roll submitted by the respondent - State does not expressly mention the date on which the prisoner was released on bail. In this situation, as data needs to be collected by the respondents to rebut the contention of the petitioner, we find that interest of justice can be met by directing the respondents to verify the period actually spent by the petitioner as under-trial prisoner. They have to verify records of Kalyan Prison where the petitioner was put during pendency of trial and records of Sessions Court, Thane, which has convicted him for that purpose.

6] To save further loss of time, we find that this can be expeditiously done by the respondents by verifying these records in presence of representative of the petitioner. We direct the representative of the petitioner to report to Superintendent of Kolhapur Central Jail, Kolhapur where the prisoner is presently housed on 10th February 2020 at 11.00 a.m.

7] The said Superintendent shall in the meanwhile procure the relevant records and thereafter pass suitable orders on the date of release of the petitioner-prisoner from the prison in accordance with policy dated 10th January 2006 mentioned supra. These orders shall be passed within next 3 days.

8] With aforesaid directions, we partly allow the Writ Petition and dispose of it.

9] No costs.

(N.R. BORKAR, J.)

(B.P. DHARMADHIKARI, J.)