

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 4391 OF 2022****IN****CRIMINAL APPEAL NO. 816 OF 2017**

Anil Ramesh Kolhe

... Appellant

V/s.

The State of Maharashtra

... Respondent

Mr.Kunal Pednekar a/w. Mr.Divesh Mehani & Mr. Aniket Vagal for Appellant.
Ms.S.D. Shinde, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 22nd December 2022.

P.C. :

1. Present Interim Application is received through jail.
2. The letter dated 2nd November 2022 sent by the Applicant through jail has been registered as Interim Application in the present Appeal. The present Appeal has been disposed off by this Court by its Judgment and Order dated 3rd August 2022 thereby commuting sentence imposed upon the Applicant by the Trial Court to 10 years of rigorous imprisonment.
3. It is the grievance of the Applicant that, in the impugned Judgment and Order passed by the Trial Court so also in the Judgment and Order dated 3rd August 2022 passed in the present Appeal, the direction as contemplated under Section 428 of Criminal Procedure Code (for short,

“Cr.PC.”) allowing set off for the period already undergone at pre-trial stage or otherwise has not been passed and therefore the jail administration is not considering his request for giving him set-off.

4. Perusal of Judgment and Order dated 3rd August 2022 passed by this Court indicates that, the said direction for granting set-off period to the Applicant for the period which is already undergone either as pre-trial incarceration or under any other head as remission remained to be mentioned.

5. In view of above, we modified our Judgment and Order dated 3rd August 2022 to that extent only and we direct the concerned Authority to grant benefit of set-off as contemplated under Section 428 of Cr.P.C. to the Applicant.

6. Application is allowed in the aforesaid terms.

7. All the concerned to act on the basis of an authenticated copy of the present Order.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]

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