

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL WRIT PETITION NO. 481 OF 2021

Mahesh s/o Rajaram Gondare
Aged about 48 years, Occ. Labour,
R/o Plot No.273, Near Kalamna Market,
Chikhali Zpadpatti, Bajrang Mandir,
Rahul Gandhi, Nagar, Nagpur.

... PETITIONER

---VERSUS---

1. State of Maharashtra,
through its Secretary,
Department of Home, Manralaya,
Mumbai-32.
2. Superintendent of Police,
Civil Lines, Nagpur,
Distt. Nagpur
3. Police Station Officer,
Police Station, Kalmna,
Nagpur

...RESPONDENTS

Ms Deepa I. Charlewar, Advocate for petitioner.
Shri M.K. Pathan, Additional Public Prosecutor for respondents.

**CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.**

DATE : 30th MARCH, 2022 .

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.

2. **Rule.** Rule made returnable forthwith.

3. By this petition under Article 226 of the Constitution of India the petitioner is challenging the order passed by the learned Additional Sessions Judge, Nagpur in Sessions Case No.263 of 2017 dated 14.05.2018.

4. This Court by order dated 06.12.2018 partly allowed Criminal Appeal No.350 of 2018 filed by the petitioner herein thereby modified the judgment and order of conviction passed by the learned Additional Sessions Judge convicting the petitioner for a period of five years.

5. It is contended that the petitioner has been released on parole for a period of 45 days i.e. from 11.05.2020 to 24.06.2020. It is undisputed fact that the petitioner has undergone sentence including remission of 3 years 10 months upto 31.04.2020. The petitioner made a request for counting the period of parole leave for remission under Rule 20 of Rules of 2018. The respondent no.1 refused to remit the sentence of the petitioner by counting the period of parole leave. The petitioner has therefore challenged

the decision of refusal of grant remission by counting period of parole leave to remit the sentence of petitioner.

6. This Court by order dated 06.09.2021, issued notice to respondents. In pursuance of which, the respondent no.1 has filed the reply stating that according to the amended Rule 20 of Maharashtra Prisons (Mumbai Furlough and Parole) (Amendment) Rules, 2018 the petitioner is not entitled to relief of remission as the parole is not an incentive. The respondent no.1 has placed reliance on unreported judgment of this Court in **Inden alias Mohiddin Sayyed Ali Shaikh Vs. State of Maharashtra and another** in Criminal Writ Petition No.750 of 2021, whereby Coordinate Bench of this Court held that the prisoner is not entitled to count the period of parole for purpose of remission of sentence.

7. We have carefully considered the impugned order and reply filed by the respondent no.1. It is undisputed that the petitioner is seeking remission to the extent of counting of parole leave period for remission of sentence. In view of position of law laid down by Coordinate Bench of this Hon'ble Court in the case of

Inden alias Mohiddin's case supra, we do not find any merit in the petition. The petitioner is therefore dismissed.

8. Ms Deepa Charelwar, learned counsel appointed for petitioner through High Court Legal Services Sub-Committee, Nagpur is entitled for fees quantified at ₹3,500/-.

Rule stands discharged. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE

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