

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 751 OF 2024

Darshan Hiru Shivdasani .. Petitioner
Versus
State Of Maharashtra .. Respondent

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Mr. Samay Sharad Pawar, Appointed Advocate, for the
Petitioner.

Mr. S. V. Gavand, A.P.P. for the State/Respondent.

Ms. Suvarna Chorge, Jailor (Gr-II), Nashik Road Central
Prison, is present.

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CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 10th JULY, 2024

P.C:-

1. At the outset, we have noticed that two counsel from the High Court Legal Services Committee, Mumbai, came to be appointed to represent the Petitioner, however we have permitted Advocate Mr. Samay Sharad Pawar to represent the Petitioner.

2. Heard learned counsel Mr. Pawar for the Petitioner, as he is appointed by the High Court Legal Services

Committee, Mumbai, to present the cause raised by the Petitioner through his letter dated 30.10.2023, and assist him in seeking justice.

From perusal of the communication addressed to the Hon'ble the Chief Justice, the Petitioner/convict Darshan Shivdasani seek extension of the benefit of remission of sentence, in the wake of policy decision of the State Government, containing Government Resolution dated 03.06.2017, wherein the State Government had extended the benefit of remission in the manner set out therein to commensurate the 125th Birth Anniversary of Dr. Babasaheb Ambedkar.

It is his specific case that he is entitled for the benefit as he was convicted under Section 302 of the Indian Penal Code ("IPC") and sentenced to suffer rigorous imprisonment for life.

It is worth to note that, the Special Judge (CBI) and the Additional Sessions Judge, City Civil and Sessions Court, Bombay, forwarded a recommendation to the Superintendent, Nashik Road Central Prison, in the wake of the policy on an assumption that his case was being considered for categorization. In any case, even if we ignore the said recommendation, when the Government Resolution dated 03.06.2017 is perused, it clearly specify that the benefit of remission shall be made available on 14.04.2016 and even those prisoners who were on bail shall be entitled to avail the

benefit, if they are otherwise undergoing the period of imprisonment, as a penalty imposed by the competent court. However, certain exceptions are made in the said Government Resolution and one of the exception is a convict, who is unauthorizedly absent and not present in the jail.

3. The case of the Petitioner falls within this category as based on the information supplied by the learned A.P.P. Mr. Gavand, it is reported that he was released on parole leave on 08.09.2011 for a period of 30 days and he was bound to report back to the prison on 09.10.2011, however he overstayed by 2825 days and was required to be arrested and confined in the prison on 04.10.2019. An offence was also registered against him under section 225 by invoking section 224 of the IPC and a punishment has been imposed for this conduct by permanently removing his name from the remission register.

In the wake of the above, he is not entitled for the benefit of remission on two counts; firstly since his name has been struck out from the remission register with permanent effect and secondly because on 14.04.2016 when the benefit of policy decision of the State Government was extended to the convicts, who were in prison or outside on bail, he was unauthorizedly absent from the prison. In the wake of this aforesaid scenario, the grievance made by the Petitioner can not be entertained and deserve a rejection.

4. The aforesaid decision shall be communicated to

the Petitioner through the Superintendent, Nashik Road Central Prison.

5. We would like to express appreciation for Mr. Samay Sharad Pawar, who was appointed through the High Court Legal Services Committee for her able assistance. Let the Legal Services Authority ensure that the legal remuneration payable to her is disbursed within a period of six weeks from today

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)

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