



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.134 OF 2024

Sunil Nilbaji Burde,
Convict No. C/6623,
Aged – 38 years, Occ. Nil,
Confined at Central Prison, Nagpur.

... **PETITIONER**

...VERSUS...

1. State of Maharashtra through
Deputy Inspector General of Prison,
Eastern Region, Nagpur.
2. The Superintendent,
Central Prison, Nagpur.

...**RESPONDENTS**

Mrs. S. P. Chavhan, Advocate for Petitioner.
Ms. N. R. Tripathi, A.P.P. for Respondents/State.

CORAM : VINAY JOSHI AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED :- 15.04.2024

ORAL JUDGMENT (PER : VINAY JOSHI, J.):-

1. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.
2. The petitioner has been convicted for the offence punishable under Section 302 of the Indian Penal Code and suffering imprisonment for life. Time to time, the petitioner has applied for parole leave, which were

granted. It is the petitioner's grievance that on three occasions i.e. in the year 2006, 2008 and 2010, he surrendered late, for which excessive penalty was imposed by calculating 5 days remission for 1 day delay, which is impugned herein.

3. Learned Counsel for the petitioner would submit that each time the petitioner has offered satisfactory explanation for late surrender, however, it was not properly considered. Moreover, it is submitted that after 2010, the petitioner was released on parole in the year 2014, 2017, 2018, 2019 and 2022 and on each occasion, he has surrendered on due date and thus, the punishment is quite harsh.

4. The State has resisted this application by relying on a chart showing the proportion in which punishment for remission cut is to be awarded. We have examined the entire record and found that in the year 2006, the petitioner surrendered late by 123 days, for which the punishment was for 615 days. In the year 2008, he surrendered 18 days late, for which the punishment was of 90 days remission cut and in the year 2010, he has surrendered 90 days late, for which, the punishment was for 450 days.

5. The petitioner has produced some medical papers to show that during the said period, he was constrained to stay for the ailment of his

family member. Particularly, we have taken into account that after 2010, on several occasions, he was released on parole and each time, he has surrendered on due date. In the circumstances, the punishment of remission cut appears to be very harsh and unreasonable.

6. In view of the above, the petition is partly allowed.

7. We hereby direct respondent No.1 Deputy Inspector General of Prison to recalculate the remission cut punishment at the proportion of 1 as to 3 days for his late surrender.

8. Necessary order be passed within four weeks from today.

9. Rule is made absolute in aforesaid terms.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)