

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1423 OF 2025

AMOL SUBHASH GAIKWAD (C-5584)
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Atharv Khedkar, Advocate for the petitioner.
Mr. G.A. Kulkarni, A.P.P. for respondents-State.
...

**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

**Reserved on : 02.04.2026
Pronounced on : 09.04.2026**

Order (Per Sandipkumar C. More, J.) :

1. Heard.
2. By way of this writ petition, the petitioner has sought following reliefs :

“A. Quash and set aside the communication dated 20.02.2023 issued by the Deputy Superintendent, Nashik Road Central Jail and the Judicial Appraisal dated 17.03.2023 passed by the District Judge-13 and Additional Sessions Judge (Prison Administration), Nashik

B. Direct the respondents to refund the surety deposit amount of Rs. 20,000/- to the petitioner or his family”

3. Admittedly, the petitioner was released on 14.03.2022 on parole leave during Covid-19 Pandemic period. According to the petitioner, he has deposited an amount of Rs. 20,000/- as a security. However, after his release on parole leave, the duration of said parole leave was extended from time to time and he was supposed to surrender on 13.06.2022. However, in view of order of Hon'ble Apex Court No. S.M. W(C) No.1/20 IN RE:CONTAGION OF COVID 19 VIRUS IN PRISONS, additional period of 15 days was granted to the prisoners to surrender themselves. Accordingly, the petitioner voluntarily surrendered himself on 18.06.2022 i.e. within the extended period of 15 days. The petitioner thus claims that despite being surrendered within time granted by the Hon'ble Apex Court, respondent No.2 still issued show-cause notice to him to explain as to why he had surrendered late by four days. The petitioner had even submitted his explanation and requested for not to pass any adverse order as he had surrendered within time limit granted by the Hon'ble Apex Court. Still respondent No.2 forwarded proposal vide communication dated 20.02.2023 to the concerned District Judge and the concerned District Judge vide order 17.03.2023, held that petitioner is guilty of overstaying four days and accordingly directed four day's cut in his remission.

4. Learned A.P.P. strongly opposed the petition by referring affidavit-in-reply filed by respondent No.2 and supported the impugned order as it was passed in view of Government of Maharashtra Circular dated 02.08.2011. However, he fairly admitted the fact that the Hon'ble Apex Court, vide order dated 03.06.2022, had granted 15 days period for the prisoners to surrender themselves who were on release of parole leave during Covid-19 Pandemic period.

5. It is significant to note that as per the Government of Maharashtra Resolution dated 04.05.2022 the prisoners were asked to surrender in the concerned prison within 15 days from his last parole extension. Thus, the petitioner's Covid-19 Pandemic parole leave extension had ended on 12.06.2022 and he was supposed to surrender before jail authority on 13.06.2022 in view of the aforesaid Government Resolution. However, it is not in dispute that the Hon'ble Apex Court, vide order dated 03.06.2022, had granted additional 15 days to the prisoners for surrendering themselves to the concerned prisons. Thus, it appears that the petitioner had in fact surrendered himself voluntarily in prison within that period i.e. 18.06.2022. As such, the impugned communication and order, are apparently illegal.

6. It is important to note that this Court at Principal Seat, Bombay, in ***Criminal Writ Petition No.192 of 2024 (Rahul Ramchandra Bhabad vs State of Maharashtra)***, by giving benefit of the order of Hon'ble Apex Court dated 03.06.2022, had given benefit of 15 days to the petitioner therein and set aside his remission cut order. Further, the Co-ordinate Bench of this Court, vide order dated 17.06.2022 in ***Criminal Writ Petition No. 3321 of 2017 (Ravi Dhiren @ Jadhav @ Rubi Ghose vs State of Maharashtra)***, had also directed to refund the amount of security to the petitioner therein. Therefore, considering these orders passed by this Court earlier, we deem it appropriate to follow the same course and accordingly following order is passed.

ORDER

- (i) Criminal Writ Petition is hereby allowed.
- (ii) The impugned communication dated 20/28.02.2023 issued by respondent No.2 as well as the order passed by District Judge-13 and Additional Sessions Judge (Prison Administration), Nashik dated 17/21.03.2023 whereby there is four day's cut in remission, are quashed and set aside. The necessary steps for erasing the said order shall be taken by the

respondent Authority within a period one month from the date of this order. The security amount of Rs. 20,000/-, forfeited by the respondent Authority, be refunded to the petitioner or his family.

(iii) We quantify the fees of the learned counsel appointed for the petitioner to the tune of Rs.3,000/-, to be paid by the High Court Legal Services Authority, Aurangabad.

(iv) Petition stands disposed of accordingly.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE