

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1562 OF 2025

Rajesh Samyadin Choudhari @
Faizan Vijay Kumar Gupta

Petitioner

Versus

1. The State of Maharashtra
2. The Superintendent of Central
Prison, Nashik
3. The Superintendent of Open
Prison, Paithan.

Respondents

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Ms. Shweta Chavan, Advocate for the petitioner.
Mr. S.P. Sonpawale, A.P.P. for respondents-State.

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

DATED : 13 MARCH 2026.

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

1. Rule. Rule made returnable forthwith. By the consent of learned counsel for the petitioner as well as learned APP, heard finally at the stage of admission.

2. The petitioner is undergoing the sentence of rigorous imprisonment for life for the offence punishable under Section 302 of the Indian Penal Code under the

judgment and order dated 30.07.2009 passed by the learned City Session Fast Track Court, Sewree, Bombay in S.C. No.670/2007.

3. As per the order passed by respondent No.1 i.e. Deputy Inspector General of Prison, Western Region, Aurangabad Division, Aurangabad, he was granted furlough leave with terms and conditions on 13.05.2011 for 14 days and thereafter the said furlough leave was extended from 09.06.2011 to 22.06.2011 for further period of 14 days. The petitioner was actually released on 25.05.2011, and therefore, considering the period of 28 days of the furlough leave, he was supposed to surrender himself on 23.06.2011. However, he could not surrender himself and consequently he was arrested and then produced in Nashik Central Jail on 28.09.2011 i.e. after the period of 88 days of expiry of furlough leave. As such, respondent No.2 issued show-cause notice to the petitioner on 19.09.2011 to which the petitioner replied by mentioning that since he was suffering from fracture of lower end of tibia and fibula and required to take bed rest, he surrendered late by 88 days. However, under the order of Extra Joint Adhoc District Judge and Additional Sessions Judge, Nashik dated 02.03.2012, on the proposal

submitted by respondent No.2, deduction of remission of 440 days was granted by applying the ratio of 1:5 as mentioned in Clause-5 of the Government Circular dated 02.08.2011.

4. Learned counsel for the petitioner submits that though the petitioner had answered show-cause notice dated 19.09.2011 by mentioning that he was having fracture to his leg as mentioned in the reply and therefore he could not surrender himself within required period and he had already annexed the medical certificate to that effect, but still respondent No.2, without considering the same, sent the proposal for such reduction of remission. According to her, punishment of such deduction is quite harsh.

5. Per contra, the learned A.P.P. strongly opposed the application on the ground that the certificate appears to be issued by a private doctor and the petitioner was in fact arrested and then brought to Nashik Central Jail belatedly after 88 days of the expiry of his furlough leave. He pointed out that as per the Government Circular dated 02.08.2011, the petitioner certainly comes under the category mentioned in Clause-5, and therefore, there was cut in his remission of 440 days by applying ratio of 1:5.

6. Admittedly, on going through the record, it is apparent that the petitioner had surrendered late by 88 days. However, the certificate on record dated 10.06.2011 issued by Dr. Sachin Bandgar indicates that the petitioner had sustained fracture at lower end of tibia and fibula and probably due to the same he could not surrender on 23.06.2011.

7. Learned counsel for the petitioner heavily relied on the judgments of this Court at Nagpur Bench dated 16.02.2008 and 15.04.2024 in Criminal Writ Petition No. 553 of 2007 and others connected writ petitions as well as Writ Petition No. 134 of 2024 respectively. On going through the said judgments, it is evident that this court had taken a view of imposing punishment of reduction in remission by applying ratio of 1:3 by specially considering the medical reports of the petitioners therein. In first group of writ petitions, the petitioner in Criminal Writ Petition No.553 of 2017 had surrendered belatedly after 1103 days and in Criminal Writ Petition No.134 of 2024 the petitioner had surrendered after 123 days. Here in this case also the petitioner had already placed on record his medical certificate as mentioned above, but it appears that it was not considered by respondent No.2

while sending the proposal to award punishment of deduction in remission to the concerned Adhoc Sessions Judge, Nashik.

8. According to learned APP, the petitioner is supposed to undergo imprisonment of 24 years including all the remissions, and therefore, only 9 months' period is remaining, since he has already undergone the imprisonment of 22 years 5 months and 3 days as on 31.11.2025. However, by considering the observations of the Co-ordinate Bench of this Court at Nagpur and also considering the fact that the petitioner had sustained fracture injury during the period of his furlough leave, we are of the opinion that the punishment of remission cut by applying the ratio of 1:5 appears harsh and unreasonable. As such, we deem it appropriate to reduce the same by applying 1:3 ratio.

9. In view of the same, the petition is partly allowed and we hereby direct respondent No.2 i.e. the Superintendent of Nashik Central Prison to recalculate the punishment of deduction of remissions by applying the ratio of 1:3 for the petitioner's late surrender by 88 days. Respondent No.2 shall pass necessary order to that effect within two weeks from the date of communication of this order and after passing such

order, the same be forwarded to the Superintendent of Central Prison, Chhatrapati Sambhajanagar.

10. Rule is made absolute in above terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE