



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

CRIMINAL WRIT PETITION NO. 1016 OF 2025

Shivchand Pran Bansode,
aged about 28 years, Occ. Labour,
R/o Udadi, Brahmangaon,
Tahsil – Pusad, District – Yavatmal.

...PETITIONER

Versus

- 1] State of Maharashtra,
through Principal Secretary,
Department of Home,
Mantralaya, Mumbai – 400032.
- 2] The Inspector General Prison,
State of Maharashtra Jail Administration,
Yerwada Pune.
- 3] Deputy Inspector of General Prison
Central Jail, Amravati.
- 4] Superintendent, Central Jail, Amravati.

...RESPONDENTS

Ms Parita N. Lakhani, Counsel for the petitioner.
Mr. A.B. Badar, A.P.P. for the respondents/State.

.....

CORAM : URMILA JOSHI - PHALKE AND
NIVEDITA P. MEHTA, JJ.
DATE : 22/4/2026

ORAL JUDGMENT (PER : URMILA JOSHI - PHALKE, J.) :

Heard.

- 2] Rule. Rule made returnable forthwith. Heard finally

by consent of learned Counsel for the parties.

3] By this petition, the petitioner is seeking a declaration that he is detained illegally for a period of 30 days causing violation of fundamental rights under Article 21 of the Constitution of India. The petitioner is further seeking directions against the respondents to pay Rs.10,00,000/- towards compensation for illegal detention.

4] The petitioner has come with a case that he was arrested in pursuance of the report dated 26/5/2017 lodged by the victim alleging that the petitioner committed rape on minor, and therefore, an offence came to be registered against him under Section 376 of the Indian Penal Code, 1860 (IPC), Sections 4 and 9 of the Prevention of Children from Sexual Offences Act, 2012 (for short “POCSO Act”), and Sections 323 and 506 of IPC, vide Crime No. 228/2017, by Police Station – Pusad, and subsequently, chargesheet came to be filed before the Additional Sessions Judge, Pusad, which was numbered as Special (Child) Case No. 14/2017. The trial was conducted against the petitioner, and he was convicted under Section 376(2)(f) of IPC, and sentenced to undergo rigorous

imprisonment (RI) for 10 years and fine of Rs.1,000/-, in default, to undergo RI for one month. He is further convicted under Section 4 of the POCSO Act, and sentenced to suffer RI for 7 years and fine of Rs.1,000/-, in default, to undergo RI for one month. He is further convicted under Section 10 of the POCSO Act, and sentenced to suffer RI for 5 years and fine of Rs.1,000/-, in default, to undergo RI for one month. He is also convicted under Section 323 of IPC, and sentenced to suffer RI for 3 months and fine of Rs.500/-, in default, to undergo RI for 15 days.

5] The petitioner has challenged the said judgment of conviction and order of sentence by preferring an appeal bearing Criminal Appeal No. 670/2019, which came to be dismissed, thereby the conviction, which was imposed by the trial Court, stands confirmed.

6] After confirmation of the petitioner's conviction, he was sent in Central Prison, Amravati. He applied for remission contending that he is entitled for the remission as follows : special remission of 20 days, educational remission of 90 days, general remission of 476 days, and remission on account of

yearly good behaviour of 150 days. Thus, total remission was of 626 days, i.e., 1 year 8 months and 26 days.

7] It is contended by the petitioner that though he is entitled for remission as per the jail manual, the jail authority has no jurisdiction to detain or keep him in jail more than the prescribed period, he was directed to undergo more sentence for 30 days. Thus, he was detained illegally, and therefore, this petition.

8] The said petition is strongly opposed by the State on the ground that while serving his sentence in prison, the petitioner has completed two trainings, and also his post graduation. On that basis, he fraudulently prepared a fake order in his own name showing 180 days educational remission allegedly issued by the Maharashtra Prisons and Correctional Services Department, Pune. That to obtain remission and secure early release from prison, he submitted this false and fabricated document, thereby misleading the prison administration, and hence, a case was registered against him at Frazerpura Police Station, Amravati, vide Crime No. 684/2024 under Sections 318(4), 337, 339, 340(2) and 3(5) of the

Bharatiya Nyaya Sanhita, 2023. The jail authorities also received a communication, i.e., an order bearing no. 98/2024 dated 11/1/2024 regarding 3 months State remission on the occasion of 125th birth anniversary of Dr. B.R. Ambedkar in the name of District Court No.1 and Additional Sessions Court, Pusa. That since there was a doubt about the authenticity of this order, the jail authorities sent a letter bearing no. 1962/2025 dated 1/3/2025 to the District Court, Pusa, for verifying the facts. The District Court, Pusa, informed through letter bearing no. 307/2025 dated 5/3/2025 that such remission order has not been issued by their office. Thus, it revealed to the authorities that the prisoner had submitted false documents regarding his educational remission and 3 months remission allegedly granted for the occasion of Dr. B.R. Ambedkar's 125th birth anniversary, thereby committing a serious offence and misleading the prison administration. It is further submitted that as per Rule 12 of Chapter XXXVIII of the Maharashtra Prisons, Executive Officers and Staff Training, Parade and Musketry Practice Rules, 1979 (for short "Rules of 1979"), if a prisoner does not commit any offence within one year from the date of last remission granted for good conduct,

he may be given 30 days annual good conduct remission. However, since the petitioner submitted fake and fabricated documents and attempted to illegally reduce his sentence and obtain early release, a criminal case was registered against him, and due to this serious misconduct, good conduct remission for the year 2023-24 was not granted to the petitioner. It is further submitted in the affidavit by the learned A.P.P. that as per Rule 12 of Chapter XXXVIII of the Rules of 1979, the Jailor, Amravati Prison (Judicial), has forwarded Special Report No. 34 dated 17/5/2025 to Senior Jailor, Amravati Prison (Judicial), wherein he recommended same to the Superintendent, Amravati Central Prison, for taking action. As per the said communication, the Superintendent, Amravati Central Prison, rejected the remission of annual good conduct falls under Rule 12. The extract of entry no.34 dated 17/5/2025 is filed on record. Thus, it is submitted that due to the conduct of the petitioner, as he is not only involved in preparing false documents, he has also prepared order in the name of the Court, no such remission was given to him, and therefore, the petition deserves to be dismissed.

9] Heard learned Counsel for the petitioner, who

submitted that the petitioner is entitled for remission for good conduct as well as general remission, which is not given to him, and without assigning any reason, the remission was denied to him, and therefore, there is an illegal detention of the petitioner. The learned Counsel placed reliance on Chapter XVI of the Jail Manual, especially Clause 16.27, which reads as under :

*“CHAPTER XVI
REMISSION*

16.01 to 16.26

16.27. Remission earned by a prisoner may be forfeited by the State Government or the Inspector General of Prisons or the Head of Prisons Department or the Superintendent of Prisons;

(i) If the prisoner is convicted of an offence committed after admission to prison, under sections 147, 148, 152, 224, 302, 304, 304-A, 306, 307, 308, 232, 324, 325, 326, 327, 332, 333, 352, 353 or 377 of the India Penal Code or convicted of an assault committed on a prison official, a prison visitor, a prisoner, or any other government employee after admission to prison. All the ordinary and special remission, of whatever kind, earned by him under these rules up to the date of the said conviction may be forfeited in part, or in whole, with the sanction of the Inspector General of Prisons or the Head of the Prisons Department,

(ii) For prison offences Superintendent is empowered to forfeit earned remission up to 30 days for one offence. Earned remission beyond 30 days may be forfeited with the sanction of the Inspector General of Prisons or the Head of the Prisons Department.

Note:

(i) All entries about forfeiture of remission shall be promptly made in the remission sheet and in the Remission Register.

(ii) State Government remission is granted on occasions of national importance or public rejoicing under Section 432 of Criminal Procedure Code. An order of unconditional remission of such sentence under this section cannot be rescinded except in cases of fraud or mistake in its grant.”

10] As could be seen, remission earned by a prisoner may be forfeited by the State Government or the Inspector

General of Prisons or the Head of Prisons Department or the Superintendent of Prisons; (i) If the prisoner is convicted of an offence committed after admission to prison, under sections 147, 148, 152, 224, 302, 304, 304-A, 306, 307, 308, 232, 324, 325, 326, 327, 332, 333, 352, 353 or 377 of IPC or convicted of an assault committed on a prison official, a prison visitor, a prisoner, or any other government employee after admission to prison. All the ordinary and special remission, of whatever kind, earned by him under these rules up to the date of the said conviction may be forfeited in part, or in whole, with the sanction of the Inspector General of Prisons or the Head of the Prisons Department; (ii) For prison offences Superintendent is empowered to forfeit earned remission up to 30 days for one offence. Earned remission beyond 30 days may be forfeited with the sanction of the Inspector General of Prisons or the Head of the Prisons Department.

11] The learned Counsel has also placed reliance on Sub-clauses (v) and (vi) of Clause 16.28. Clauses (v) and (vi) read as under :

*“16.28 Following records will be maintained by the prison authority:
(i) to (iv)*

(v) Grant or forfeiture, if any, of all types of remission should be recorded in the remission sheet.

(vi) The Deputy Superintendent, or officer in charge of admission and release, shall inspect the Remission Register or Remission Sheets at fixed intervals.”

12] As could be seen, grant or forfeiture, if any, of all types of remission should be recorded in the remission sheet. And the Deputy Superintendent, or officer in charge of admission and release, shall inspect the Remission Register or Remission Sheets at fixed intervals.

13] The learned A.P.P. has pointed out, from the recitals of the First Information Report (FIR), which was registered against the petitioner, that he has prepared a forged document in the name of jail authorities showing that he is extended with remission benefit of 180 days under the head of educational remission allegedly issued by the Maharashtra Prisons and Correctional Services Department, Pune. Annexure – R1 is the said document, which subsequently revealed to be a forged document, which is prepared by the petitioner. In fact, it reveals that the said remission was given to one Sudarshan Sadashiv Vighne, which was shown by the petitioner to obtain the said remission by forging the document. Due to the act of the petitioner, the FIR came to be registered against him vide

Crime No. 684/2024 at Frazerpura Police Station, Amravati. Similarly, the communication received from the District Court – 1, Pusad, shows that the Court has not issued any communication in the name of the petitioner stating that he is entitled for remission under the Scheme of 125th birth anniversary of Dr. B.R. Ambedkar. Thus, the communication in the name of the District Court is also prepared by the petitioner. The learned A.P.P. has also relied upon Rule 12 of Chapter XXXVIII of the Rules of 1979, wherein it is stated that any prisoner eligible for according remission has not committed any prison offence (not being a warring) for a period of one year (excluding the period during which the prisoner is removed from the remission system), reckoned from the date of his sentence, or as the case may be, from the date on which he was last punished for a period offence, he may be granted 30 days annual good conduct remission, in addition to any other remission. Such remission may be granted to the prisoner in view of Rule 14(a) which provides for saving the life of a Government employee or prison visitor or inmate, and 14(b) which provides for protecting Government employee or prison visitor or inmate from attack.

14] Thus, the case of the petitioner is not covered under Rules 12 and 14. Moreover, considering his conduct that he has prepared forged documents, not only in the name of the prison authorities but in the name of the Court as well, which admittedly, is a serious act on part of the petitioner, the jail authorities have rightly rejected his remission request.

15] No interference is, therefore, called for in the impugned order, and the writ petition deserves to be dismissed.

Hence, following order :

ORDER

I] Writ Petition No. 1016/2025 is dismissed.

II] Rule is discharged.

JUDGE

JUDGE

Sumit