
(2011) 07 BOM CK 0102

In the Bombay High Court

Case No : Criminal Writ Petition No. 343 of 2011

Ammu Shah Rahamtulla Shah

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 08-07-2011

Acts Referred:

Citation : (2011) 07 BOM CK 0102

Hon'ble Judges : V.K. Tahilramani, J;M.L. Tahaliyani, J

Bench : Division Bench

Advocate : N.S. Bhat, for the Appellant; T.A. Mirza, Additional Public Prosecutor, for the Respondent

Judgement

V.K. Tahilramani, J.—Rule. By consent of Mr. N.S. Bhat, learned Advocate for the Petitioner and Mr. T.A. Mirza, learned Additional Public Prosecutor for the Respondents, rule is made returnable forthwith and the matter is heard finally.

2. The Petitioner is a convict undergoing life imprisonment in Central Prison, Amravati. The case of the Petitioner is that as per the guidelines for premature release, he is placed in Category 3(b), i.e. he is entitled to be released on completing 24 years with remission provided he has completed 14 years of actual imprisonment. According to the Petitioner, as he has undergone more than 14 years of actual imprisonment, he should be released forthwith.

3. The affidavit filed by the Superintendent, Central Prison, Amravati shows that the Petitioner was released on furlough for a period of two weeks by order dated 18.3.1992. However, the Petitioner did not surrender to prison in time and he was absconding for 789 days. The Petitioner had to be arrested and brought back to prison. On account of overstay, prison punishment of cutting of remission in the ratio of 1: 5 was imposed on him. This punishment was also approved by the learned Sessions Judge, Amravati. Thereafter, the Petitioner was again released on furlough by order dated 21.4.1999. Again he did not surrender in time and he was absconding for 284 days. He had to be arrested and brought back to prison.

Prison punishment of forfeiture of remission in the ratio of 1 : 5 was imposed on him. Hence, total remission of 1420 days was forfeited from the account of the Petitioner after following due procedure. Thereafter, the Petitioner was again released on furlough for a period of two weeks by order dated 28.3.2002. Again he did not surrender on due date and he was absconding for 1034 days. He was again arrested and brought back to prison. As there was no remission left to the credit of the Petitioner on account of earlier forfeiture of remission on the second occasion he was permanently removed from the remission register.

4. Thus, it is claimed that the Petitioner had overstayed the period of furlough by 2107 days, i.e. 5 years, 10 months and 7 days. As the Petitioner has been placed in Category 3(b) of the 14 year guidelines dated 11.5.1992, he would be entitled to be released after completing 24 years of imprisonment including remissions. Though the Petitioner may have completed 14 years of actual imprisonment, on account of cutting of remission his probable date of release subject to good conduct in prison would be 25.5.2014. Looking to the conduct of the prisoner and the prison punishments which have been imposed after following due procedure, no case is made out for interference.

5. The Writ Petition is rejected. Rule stands discharged. Fees of the appointed Advocate is quantified at Rs. 750/-.