



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

CRIMINAL WRIT PETITION NO. 366 OF 2026

Bappasaheb S/o Bhaskar Aware (C-5694)
Age : 48 years, Occ : Convict,
At present confined in Open Jail
Visapur, Dist. Ahilyanagar

... PETITIONER

VERSUS

1. State of Maharashtra,
Through Superintendent of Jail,
Open Jail Visapur,
Dist. Ahilyanagar.
2. Secretary,
Home Department (Prison),
Mantralaya, Mumbai.

... RESPONDENTS

...
Mr. Rupesh A. Jaiswal, Advocate for the Petitioner
Mrs. U.S. Bhosale, APP for Respondent/s - State
...

**CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ.**

RESERVED ON : 28th August, 2026
PRONOUNCED ON 9th September, 2026

JUDGMENT [Per Vaishali Patil-Jadhav, J.] :

. Rule. Rule made returnable forthwith. Heard finally with the consent of learned advocate for the petitioner and the learned APP.

2. By way of this criminal writ petition, the petitioner, who is the original convicted accused no. 1 in Sessions Case No. 44 of 2010, is seeking quashment of the order dated 20.01.2026 passed by Respondent No.2- State, whereby he is placed under Category 2(c) of the Guidelines issued under Government Resolution dated 15.03.2010 (hereinafter referred to as "Guidelines of 2010"), prescribing 26 years period of imprisonment (including remissions) to be undergone for considering the proposal for premature release. It is also prayed to direct Respondent No.2 to place him under Category 2(b) of the Guidelines of 2010, prescribing 22 years period of imprisonment (including remissions), and then, to direct Respondent No.1 to release the petitioner forthwith.

3. The petitioner was convicted by the learned Additional Sessions Judge, Beed, in Sessions Case No. 44 of 2010 on 04.07.2011 for the offences punishable under Sections 302, 304-B, 498-A, 201 read with Section 34 of the Indian Penal Code and sentenced to suffer imprisonment for life. The petitioner and his father had preferred an appeal against their conviction before this Court by filing Criminal Appeal No. 525 of 2011. The

Appeal came to be dismissed as against the petitioner, and his father was acquitted on 28.02.2014. The petitioner has undergone actual imprisonment of 14 years, 1 month and 16 days, and 23 years, 4 months and 19 days inclusive of all remissions till 28.02.2026.

4. Learned advocate for the petitioner submits that the impugned order is passed erroneously. It is submitted that the petitioner ought to have been placed under category 2(b) of the Guidelines of 2010, and not under category 2(c), as the crime committed by the petitioner does not involve “exceptional violence” or “brutality” as alleged by the respondents.

Learned advocate further submits that though the crime was committed with premeditation, there is nothing on record to show that the same was committed with exceptional violence or brutality, and hence, the petitioner deserves to be categorised under Category 2(b) of the Guidelines of 2010, which specifically deals with offences relating to crime against women and minors committed with premeditation.

Learned advocate in support of his arguments relied on the judgment in the case of **Sopan S/o**

Bhausahab Gunjal Vs. The State of Maharashtra and another in Criminal Writ Petition No. 1128 of 2022 dated 12.04.2023, Aslam s/o Jamadar Ansari Vs. State of Maharashtra and Anr. in Criminal Writ Petition No.837 of 2024 dated 01.07.2024 and Ganesh @ Deepak S/o Shahji Patil Vs. State of Maharashtra and Anr. in Criminal Writ Petition No.917 of 2025 dated 18.09.2025.

5. Per contra, learned APP supports the impugned order and submits that the State Government has rightly placed the petitioner under Category 2(c) of the Guidelines of 2010. Learned APP drew our attention to the judgment of the trial Court, which specifically observed that the petitioner committed “brutal murder and dowry death”. Considering the nature of the offence, which involves strangulation and tampering of evidence by throwing the dead body in a well, the case squarely falls under Category 2(c).

6. Heard learned Advocate Mr. Rupesh Jaiswal for the petitioner and learned APP Mrs. U.S. Bhosale for the

respondent- State. We have carefully considered the rival submissions and perused the papers.

7. The sentencing Court, the Advisory Board and the Inspector General of Prisons have all concurred that the petitioner's case falls under Category 2(c) due to exceptional brutality involved in commission of the offence.

8. For ready reference, we have reproduced category 2(c) of the Guidelines of 2010, wherein the petitioner is placed by order dated 02.02.2026, as well as Category 2(b), which the learned counsel for the petitioner has relied upon in support of the claim for premature release which read thus :

Category 2(c) of the Guidelines of 2010 :-

Category No.	Sub category	Categorisation of Crimes	Period of Imprisonment to be undergone including remission subject to a minimum of 14 years of actual imprisonment including set off period.
2		OFFENCES RELATING TO CRIME AGAINST WOMEN AND MINOR	
	c	Where the crime is committed with Exceptional violence and or with brutality or death victim due to burns.	26 years

Category 2(b) of the Guidelines of 2010 :-

Category No.	Sub category	Categorisation of Crimes	Period of Imprisonment to be undergone including remission subject to a minimum of 14 years of actual imprisonment including set off period.
2		OFFENCES RELATING TO CRIME AGAINST WOMEN AND MINOR	
	b	Where the crime as mentioned above is committed with premeditation	22 years

9. We have gone through the judgment of the trial Court, whereby the petitioner was convicted. The facts and evidence on record clearly establish that the incident between the petitioner and the deceased arose out of demand for dowry. The marriage between the petitioner and deceased Sangita was solemnized on 12.06.2009. After one month of marriage, the father of deceased Sangita PW-2 - Dashrath visited the deceased's matrimonial house, where the petitioner expressed displeasure over the marriage arrangements and demanded Rs.1,00,000/-. The deceased was assaulted by the petitioner and his family members in presence of her father PW-2. During *Diwali*, 2009 and one month subsequent to that, PW-2 Dashrath visited the petitioner/accused again and requested them to treat the deceased properly, but the accused did not agree.

On 22.12.2009, a telephonic message was received that the deceased was missing. After extensive search, on 24.12.2009, the dead body of the deceased was found floating in a well. In the postmortem report, the cause of death was mentioned as "cardio respiratory arrest due to asphyxia due to strangulation". The postmortem report also shows that there were two faint ligature marks below the hyoid bone. In the inquest panchanama it is observed that round mark around the neck of deceased Sangita was found, which is ligature mark as per evidence of the doctor. The trial Court has observed that the petitioner and his father strangled deceased Sangita and made a farce of her search by giving false message to PW-2 that the deceased was missing, as the postmortem note shows that the death of Sangita had occurred before 36 hours to less than 72 hours and the accused have suppressed the fact of homicidal death of the deceased and threw her body in a well. It has also come in the evidence of PW-2, father of the deceased, Sangita knew swimming and the accused has also admitted that she used to swim in the river.

It is a fact that the death of Sangita has occurred within one year of marriage, there is evidence regarding demand of dowry, death has occurred due to strangulation and the body was further thrown in a well. In our considered opinion, these circumstances would not constitute exceptional violence and murder with brutality to fall under Category 2(c), though the learned APP has pointed out that the trial Court has specifically observed that the petitioner has committed “brutal murder and dowry death of the deceased”.

10. Here it will be apposite to refer to the observations made in the case of **Rajaram Patil Vs. State of Maharashtra, 1997 (99) Bom. L.R. 98**, which read thus :-

“4. Every murder is a result of some kind of violence. Use of weapon or blows on the vital part by itself cannot be termed to be an exceptional violence. Such a violence would be ordinary violence for committing murder. It appears that the State Government wanted to create a separate category of murders in which there is an exceptional violence or which show that the perversity of mind. In a peace loving society, every murder is bound to shock the members of the society but the exceptional violence creates tremors of shock and indignation. We do not wish to give examples which amount to exceptional violence but suffice it to say that, the present case is not one which can be labelled as a case of exceptional violence. Though every offence of murder is creation of an ill-mind, perversity is something more than that. Perverse individuals may act in a fashion in committing

the murder as would show that depravity of balance of mind. We do not see anything in the acts committed by the present petitioner which show any perversity in his mind. The question as to whether there is an exceptional violence or there is perversity in a particular case will have to be decided on the basis of the facts and circumstances of that case and no yardstick of universal application can be available for this purpose."

11. In the light of the above, we are of the considered opinion that the view expressed by the Presiding Judge of the Trial Court under Section 432 of the Code of Criminal Procedure, the Advisory Board and the Inspector General of Prisons namely, that the petitioner's case falls under category 2(c) which deals with "offences relating to crime against women and minor committed with exceptional violence and or with brutality or death of victim due to burns", is not factually tenable, but rather the petitioner's case falls under category 2(b), which deals with "offences relating to crime against women and minor where the crime as mentioned above is committed with premeditation". The facts of the case show that it was a murder with premeditation for the reason that the demand of dowry is proved and before one month of the incident, the deceased was driven out of the matrimonial house for bringing the amount of dowry. Hence, looking at the facts of the case, the petitioner's case falls under Category 2(b).

12. The petitioner has placed reliance on the judgment in the case of ***State of Haryana and Ors. Vs. Jagdish, 2010 AIR (SC) 1690***, wherein it is held that the policy/category beneficial to the prisoner has to be adopted and liberal interpretation should be given. Therefore, the case of the petitioner would fall in Category 2(b), which provides for 22 years of imprisonment to be undergone including remission and not in 2(c) which provides for 26 years of imprisonment to be undergone including remission.

13. In view of the above discussion, the impugned order is not sustainable. Hence, we proceed to pass the following order :-

ORDER

- (i) The petition stands allowed.
- (ii) The impugned order dated 20.01.2026 passed by respondent no.1, is hereby quashed and set aside.
- (iii) The respondents are directed to place the petitioner under category 2(b) of the Guidelines issued under Government Resolution dated 15.03.2010.

- (iv) Necessary order to that effect shall be passed within 15 days from the date of this order.
- (v) Rule is made absolute in the above terms and the petition is disposed of accordingly.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE

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