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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4138 OF 2013

Deepti Anil Devasthali and anr. ... Petitioners

Versus

The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION (STAMP) NO.23167 OF 2025
IN**

WRIT PETITION NO.4138 OF 2013

Deepti Anil Devasthali and anr. ... Applicants

Versus

The State of Maharashtra Respondent

**WITH
CRIMINAL APPLICATION NO.331 OF 2014
IN**

WRIT PETITION NO.4138 OF 2013

Deepti Anil Devasthali and anr. ... Applicants

Versus

The State of Maharashtra Respondent

**WITH
CRIMINAL APPLICATION NO.57 OF 2014
IN**

WRIT PETITION NO.4138 OF 2013

Deepti Anil Devasthali and anr. ... Applicants

Versus

The State of Maharashtra Respondent

**WITH
CRIMINAL APPLICATION NO.137 OF 2014
IN**

WRIT PETITION NO.4138 OF 2013

Deepti Anil Devasthali and anr. ... Applicants
Versus
The State of Maharashtra Respondent

**WITH
CRIMINAL APPLICATION NO.231 OF 2014
IN
WRIT PETITION NO.4138 OF 2013**

Deepti Anil Devasthali and anr. ... Applicants
Versus
The State of Maharashtra Respondent

**WITH
CRIMINAL APPLICATION NO.422 OF 2014
IN
WRIT PETITION NO.4138 OF 2013**

Deepti Anil Devasthali and anr. ... Applicants
Versus
The State of Maharashtra Respondent

Mr. N. N. Gawankar, Amicus Curiae a/w Mr. Shreyas N. Gawankar, Mr. Manas N. Gawankar, for the petitioners.

Ms. M. H. Mhatre, APP for the respondent-State.

Ms. Leena Devasthali, petitioner No.2-present-in-person.

**CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.**

DATE : 16th OCTOBER 2026

JUDGMENT (PER M. S. KARNIK, J.) :

1. The petitioners were convicted by the Sessions Court,

Pune in Sessions Case No.98 of 2007, for the offences punishable under Sections 302 r/w 120B, 364A r/w 120B, 387 r/w 120B, 468 r/w 120B, 328 r/w 120B of Indian Penal Code, 1860 (“IPC”, for short) and certain other sections for lesser offences. The Trial Judge sentenced the petitioners to death on two counts i.e. Section 302 r/w 120B and Section 364A r/w 120B of IPC. The petitioners were arrested on 7th July 2006.

2. The allegations for which the petitioners were tried were extremely serious. Between March 2006 to July 2006 the applicant and her mother – co-accused conspired and planned the offence for ransom. They established fake detective agency and published advertisement in newspaper to recruit people for the same. Three persons were engaged who were lured that they would be hired if they fulfilled the task of keeping watch on Dr. ‘M’, Orthopedic Surgeon of Yashwantrao Chavan Memorial Hospital, Pimpri. A room at Shantanu Lodge was hired. The proposed recruits were trained and the petitioner visited Dr. ‘M’ under the pretext of offering him visiting faculty post at Omkar Charitable Trust. Dr. ‘M’ was invited for a meeting at Shantanu Lodge at 4:00 p.m. on 2nd July 2006. After discussing the prospect with wife, Dr. ‘M’ left his residence at 3:45 p.m. to meet accused at

Shantanu Lodge, who had impersonated themselves. Immediately on arrival of Dr. 'M', the co-accused, i.e. recruits of the petitioner's detective agency caught hold of his legs and gagged his mouth whereafter the detainee 'L' administered him an injection causing him to fall unconscious. Thereafter, they placed him in Martiz Car and headed to Karve Road, where detainee 'D' (applicant) was waiting. On arrival both the accused women, relieved the accompanying recruits (co-accused) and proceeded further. In the meantime, while wife of Dr. 'M' was unable to access and approach or reach him on phone, on persistent calling, the wife of Dr. 'M', was threatened to pay ransom of Rs.25,00,000/-. She therefore informed all family members, doctors and relatives and a report was lodged at Deccan Gymkhana Police Station setting the investigation into motion. On accosting the accused, it transpired that both the women life convicts had not only killed the Doctor for ransom; but in order to destroy evidence, they cut the body into pieces and threw those in the mountain pass at Katraj. Thus, the offence was registered against the detainees and others as CR No.386 of 2006 for the aforesaid offences at Deccan Gymkhana Police Station.

3. The applicant along with her mother and other accused

were tried at the Sessions Court, Pune in Sessions Case No.98 of 2007 and convicted on 27th December 2007 with sentence as follows :-

IPC Section	Sentence Awarded	Fine	Default Sentence (if fine not paid)
302 read with 120B	Death (to be hanged by the neck until dead)	Rs.10,000	3 months
364A read with 120B	Death (to be hanged by the neck until dead)	Rs.10,000	3 months
387 read with 120B	7 years' imprisonment	Rs.5,000	3 months
419 read with 120B	3 years' imprisonment	Rs.10,000	3 months
465 read with 120B	2 years' imprisonment	Rs.3,000	3 months
468 read with 120B	5 years' imprisonment	Rs.10,000	3 months
471 read with 120B	3 years' imprisonment	Rs.1,000	1 month
328 read with 120B	7 years' imprisonment	Rs.10,000	6 months
342 read with 120B	1 year's imprisonment	(Not shown in the excerpt)	(Not shown)
201 read with 120B	7 years' imprisonment	(Not shown in the excerpt)	(Not shown)

4. The petitioners challenged their conviction in Criminal Appeal No.173 of 2008 in this Court which was heard along with Confirmation Case No.1 of 2008. The Criminal Appeal was heard by this Court and by the judgment and order dated 30th September 2009, this Court partly allowed the criminal appeal by acquitting

the petitioners for the offence punishable under Section 302 r/w 120B and under Section 201 r/w 120B of IPC. The following table indicates the details of the punishment imposed by this Court in the confirmation case and the appeal :-

IPC Section	Sentence Awarded	Fine	Default Sentence (if fine not paid)
302 read with 120B	Acquitted	-----	-----
364A read with 120B	Life	Rs.10,000	3 months
387 read with 120B	7 years' imprisonment	Rs.5,000	3 months
419 read with 120B	3 years' imprisonment	Rs.10,000	3 months
465 read with 120B	2 years' imprisonment	Rs.3,000	3 months
468 read with 120B	5 years' imprisonment	Rs.10,000	3 months
471 read with 120B	3 years' imprisonment	Rs.1,000	1 month
328 read with 120B	7 years' imprisonment	Rs.10,000	6 months
342 read with 120B	1 year's imprisonment	(Not shown in the excerpt)	(Not shown)
201 read with 120B	7 years' imprisonment	(Not shown in the excerpt)	(Not shown)

5. At this juncture it is pertinent to mention that the petitioners have filed SLP before the Hon'ble Supreme Court challenging the judgment and order passed by this Court. So also, the Criminal Application No.958 of 2011 challenging the acquittal

of the petitioners under Section 302 r/w 120B of IPC and for other offences is pending.

6. After the criminal appeal was decided by this Court and during the pendency of the SLP, the petitioners have filed the present writ petition in the year 2013. In the said writ petition several criminal applications have been filed. The applications pertain to making complaints/allegations against the jail authorities. A consolidated reply was filed by the State dated 21st November 2022 dealing with these allegations.

7. The petitioners were undergoing the sentence at Yerwada Women's Prison, Pune. So far as the petitioner No.2 is concerned, upon completion of 14 years of actual imprisonment and 60 years of age, she was released by the respondent-State.

8. Pending the writ petition, the respondent passed an order dated 22nd September 2025, categorising the case of petitioner No.1 under category 7(a) of Government Resolution ("GR") dated 11th May 1992 and category 6(d) of GR dated 15th March 2010, requiring petitioner No.1 to undergo 30 years of imprisonment with remissions. Petitioner No.1 has challenged the impugned order by filing Interim Application (Stamp) No.23167 of 2025.

9. This Court requested Mr. Gawankar, learned counsel to appear as Amicus in the matter. Mr. Gawankar submitted that the impugned order cannot be sustained as category 7(a) / 6(d) have wrongly been applied by the respondent. It is submitted that those categories would be applicable if the offence of murder was proved against the petitioner No.1. It is submitted that since the petitioner No.1 (applicant) was acquitted of the charge punishable under Section 302 of IPC and was convicted under Section 364A and sentence to suffer imprisonment for life, therefore, category 7(a) of 1992 GR will have no application. Likewise, it is submitted that category 6(d) of 2010 GR will be applicable if the charge punishable under Section 302 of IPC stands proved. Since the petitioner No.1 was acquitted of the charge of murder, learned counsel submits, that category 6(d) or even Annexure-I of 2010 GR has no application to the petitioner's case.

10. Ms. Mhatre, learned APP for the State vehemently opposed the application. It is submitted that the present case pertains to two life convicts, sentenced for serious offences. Our attention is invited to the detailed affidavit-in-reply filed by the respondents affirmed by the Deputy Inspector General of Prison, Western Region, Pune-6 dated 23rd July 2026. Learned APP

submitted that in the present case it is necessary to unleash the truth and bring out the facts, not only pertaining to the germane offence, but also the demeanour of the petitioner herein and her advocate mother, who was also life convict with her. It is submitted that the petitioner as well as the co-accused mother, both life convicts are cantankerous and notorious women who have been flouting rules of the prison and were orally reprimanded several times by the Jail Superintendent and other authorities. It is submitted that immediately on being released prematurely from prison, merely for having completed 60 years of age on 23rd May 2025, the detinue 'L' has moved several applications making myriad frivolous, vexatious and baseless allegations, not only against the prison authorities; but also against the judiciary, which will be clear from the written arguments also filed by her on 25th May 2026. Learned APP submitted that on this very count, her interim application deserves to be dismissed in limine by saddling heavy exemplary costs. It is submitted that the present application is as frivolous and baseless as the other applications filed.

11. The stand of the respondent is as under :-

(A) **Object of premature release :**

Considering life convict for premature release serves the purpose of showing mercy to the prisoner and helping his rehabilitation, if he demonstrates good conduct or in case of change of conditions or special conditions. As such this purpose needs to be borne in mind by the Government while considering pre-release.

(B) Legal provisions concerning commutation of sentence :

- i. Section 433 of CrPC confers power on the Government to commute sentence without consent of the convict;
- ii. Section 433A of CrPC imposes restriction on the powers of remission or commutation and mandates undergoing atleast 14 years' imprisonment to be eligible for commutation;
- iii. Section 434 of CrPC confers concurrent power on the Central Government to commute death sentence;
- iv. Section 435 of CrPC mandates State Government to act in consultation with the Central Government in certain cases;
- v. Section 59 of the Prisons Act.

(C) Government Resolutions from 1978 to 2010:

In consonance with the powers vested in it vide Section

433A of CrPC, various guidelines were issued by the Government from time to time for categorisation of the crime with corresponding total periods of imprisonment, right from 1971 till date. These guidelines lay down a broad division of the patterns of crimes for the purpose of premature release of prisoners sentenced to imprisonment for life. Thus, following guidelines were issued and prevailed from time to time :

a) Guidelines dated 16th November 1978 :

Due to amendment to the CrPC and introduction of section CrPC by the Amendment Act, 1978, the prevailing guidelines of 1978 became inapplicable to the prisoners covered by section 433A of CrPC leading to issue of revised guidelines on 11th May 1992.

b) Guidelines dated 11th May 1992 :

No guidelines were framed for those convicts undergoing life sentence and not covered by section 433A of CrPC, leading to revising of guidelines for premature release of life convicts not covered under section 433A.

c) Guidelines dated 18th June 2008 :

All the previous prevailing guidelines were applicable to

prisoners committing crime under IPC, however, they did not cover grave offences under stringent laws like TADA, MCOCA, POTA, etc., necessitating further revision of the said guidelines to include the same.

d) Guidelines dated 15th March 2010 :

After a thoughtful consideration of all earlier guidelines these guidelines which are in force, cover life imprisonment of convicts for grave offences under TADA, MCOCA, POTA, etc. These are applicable to prisoners convicts on or after the date of issue of this Government Resolution dated 15th March 2010. It further provides for completion of 12 years' actual imprisonment to be considered for review under the "14-year rule", to which section 433A of CrPC is applicable and after 8 years to which section 433A of CrPC is not applicable. It also excludes the prisoners convicted for offences against the State or terrorist activities of organised crime from being considered for open prison. Annexed hereto and marked as "Exhibit - A Collectively" are the extracts of the abovementioned guidelines.

(D) **Opinions of various Authorities on pre-release :**

a) District and Sessions Court dated 7th August 2018 and 12th November 2020 :

The Sessions Court opined that in view of pendency of Criminal Appeal at the Hon'ble Supreme Court, it could not opine on convicts 14-year remission proposal.

b) ACP, Crime -II, Pune City dated 20th November 2015 :

The ACP opposed premature release of the petitioner until completion of life sentence.

c) District Magistrate, Pune City dated 19th December 2015 :

The ACP opposed premature release of the petitioner until completion of life sentence.

d) Superintendent's recommendation :

The Superintendent recommended categorisation of petitioner and co-convict under clause 7(a) of GR dated 11th May 1992, under clause 8 of GR dated 11th April 2008 and under clause 6(d) of GR dated 15th March 2010. Further recommended 30 years life imprisonment in view of the prevailing GR dated 15th March 2010.

e) Advisory Board dated 29th December 2018 :

The Advisory Board has not recommended premature release of the petitioner.

f) Additional Director General of Police and Inspector

General of Prisons :

They both have not recommended convict's premature release considering the gravity of the offence and have left the decision to the Government.

Thus, accordingly, the State Government vide Order dated 22nd September 2025 categorised the petitioner under clause 6(d) of GR dated 15th March 2010 and directed her release after completion of 30 years of imprisonment with remission.

The categorisation of the petitioner is thus absolutely apt and justified, considering the nature of offence, gravity of offence and opinions of the various Authorities. Consequently, she does not deserve to be pre-released and has to complete 30 years of imprisonment with remission.

It may be argued that when accused No. 2 viz. Leena Devasthali i.e. mother and co-convict was pre-released on 23rd May 2025, after 19 years of imprisonment, accused No.1 i.e. petitioner would also be entitled to such pre-release since the offence is the same. However, it is pertinent to note that accused No. 2 viz. Leena Devasthali i.e. mother and co-convict was pre-released on the ground of her completing 60 years of age as per GR dated 10th January 2006. Annexed hereto and marked as

"Exhibit - B" is a copy of Government Resolution dated 10.01.2006 pertaining to release of women convicts having attained 60 years of age.

II. The petitioner was deliberately placed in wrong category so as to avoid releasing her and to detain her wrongfully :

The Advocate for petitioner and Mother of present detainee/Life convict, has admitted having met the Secretary to the Hon'ble Home Minister, as the Hon'ble Home Minister is the highest authority for prisons, and she trusted him, requesting for release of her daughter, and handed over 2 applications against Jail authorities, on 18th September 2025, who assured that he will put up the matter before the Hon'ble Home Minister. She further contends that on 22nd September 2025, an illegal order was passed by the Hon'ble Home Minister, subjecting the petitioner to conditions to be abided for pre-release.

It is pertinent to note that the categorisation of the Life convicts is by the Home Department as per Resolution, which also empowers it to impose appropriate conditions for the pre-release as per Section 432(4) of CrPC. Besides, the order dated 22nd September 2025 imposing the conditions is also passed by the Hon'ble Home Minister, in whom the petitioner and her mother

reposed complete confidence. Further, the said order has been passed after perusing the entire criminal record of the petitioner, the observations of 2 courts, opinions of the District Magistrate as well as Police, in a reasoned manner. Hence, said allegation stated in clause (a) above, is baseless and untenable, petitioner would not be justified in alleging that Jail authorities detained the petitioner deliberately, by wrong categorisation, neither of which may be Jail authorities.

12. It is submitted that pre-release of convict is not a matter of right; but an empathetic approach adopted upon request. As per procedure, all pre-release convicts are subjected to appropriate conditions, depending upon each case. Needless to state that the conditions are distinct in each case and conditions imposed on any convict cannot be compared. It is submitted that there is nothing on record to point out or even suggest any bad or wrong behaviour of the petitioner. It is submitted that the petitioner had been reprimanded several times orally, and on 30th May 2014 was also reprimanded in writing, for misconduct in jail, violating the prison rules.

13. We have heard learned Amicus for the petitioners and learned APP for the respondent-State. We have perused the

interim application in pending writ petition. We have perused the materials on record and also the other applications filed by the petitioners.

14. At the outset it would be pertinent to reproduce the GR dated 15th March 2010 and the Annexure-I and II thereunder in its entirety for a proper appreciation of the submissions of learned counsel to determine whether the categorisation of the petitioner No.1 by the respondent-State is correct or otherwise.

Guidelines for premature release under the "14 Year Rule" of prisoners serving life sentence.

GOVERNMENT OF MAHARASHTRA
Home Department,
Government Resolution No. RLP-1006/C.R. 621/PRS 3,
Mantralaya, Mumbai 400 032.
Dated 15th March, 2010.

Read : 1. Government Letter, Home Department, No.RLP 1077/
348/PRS-3, dated 16th November, 1978,
2. Government Letter, Home Department, No.RLP 1092/
13/252/PRS-3, dated 11th May, 1992
3. Government Resolution, Home Department, No.RLP
1006/C.R. 621/PRS-3, dated 11th April, 2008 and
13th June, 2008.

Resolution

Government had revised guidelines for premature release of prisoners undergoing life sentences from time to time. These guidelines are applicable to prisoners committing crimes mentioned in the Indian Penal Code. However, the said guidelines does not cover grave offences such as life imprisonment under stringent laws like TADA, MCOCA, POTA etc. Therefore, in exercise of power vested in it under section 432 of the Criminal Procedure Code 1973, the State Government has decided to modify the existing guidelines of even number, dated 11th April, 2008 and dated 13th June, 2008 and pleased to sanction revised guidelines. These revised guidelines are enclosed herewith as Annexure I and Annexure II. These guidelines will applicable to the prisoners who are convicted on or after the date of issue of this Government Resolution.

2. In case of life convicts covered under these guidelines, the process of review shall commence after completion of 12 years of actual imprisonment for review

under the “14 Year Rule” to which provision of section of 433-A of the Code of Criminal Procedure are applicable and after completion of eight years to which provisions of section of 433-A of the code is not applicable. Prisoners convicted for offences against State or in terrorist activities or organised crime or similar nature of activities will not be selected for open prison.

3. If there is a difference of opinion between the Prison Advisory Board and Inspector General of Prisons, Maharashtra State Pune, Inspector General of Prisons shall record the specific reasons in support of his recommendations.

4. The State Government reserves its rights to remit any sentence to release the prisoners only after undergoing imprisonment in excess for which there is no specific guidelines as mentioned in the annexures enclosed with this Government Resolution.

By Order and in the name of the Governor of Maharashtra,

Sd/-
(S.C. Mondkar)
Deputy Secretary to the Government,
Home Department.

To,

The Principal Secretary to the Governor of Maharashtra,
The Principal Secretary to the Chief Minister, State of Maharashtra.
The Additional Chief Secretary (Home), Home Department, Mantralaya, Mumbai.
The Principal Secretary (A. & S.), Home Department, Mantralaya, Mumbai.
The Secretary to the Deputy Chief Minister,
The Private Secretary to the Minister (Home),
The Private Secretary to the Minister for State (Prisons),
The Inspector General of Prisons, Maharashtra State, Pune (5 copies),
All Deputy Inspector General of Prison,
All Superintendents of Central / District / Open Prison (2 copies),
All Desks, Home Department, Mantralaya, Mumbai.
The Government Pleader, High Court of Mumbai (Appellate Branch) / Bench at Nagpur and Aurangabad (5 copies)
The Select File, Desk, PRS - 3.

Annexure I

Cate gory No.	Sub Cate gory	Categorisation of Crime	Period of imprisonment to be undergone including remissions subject to a minimum of 14 years of Actual Imprisonment including Set-off period.

1.		OFFENCES RELATING TO CRIME BY WOMEN.	
	(a)	Where the convict has no previous criminal history and has committed the murder in an individual capacity in a moment of anger and without premeditation or under physical, mental provocation.	18
	(b)	Where the convict has committed the murder with premeditation or by a gang.	20
2.		OFFENCES RELATING TO CRIME AGAINST WOMEN AND MINORS.	
	(a)	Where the convict has no previous criminal history and has committed the murder in an individual capacity in a moment of anger and without premeditation.	20
	(b)	Where the crime as mentioned above committed with premeditation.	22
	(c)	Where the crime is committed with exceptional violence and or with brutality or death of victim due to burns.	26
	(d)	Murder with rape	28
3.		MURDERS ARISING OUT OF LAND DISPUTE, FAMILY FEUDS, FAMILY PRESTIGE AND SUPERSTITION.	
	(a)	If the offence is committed in individual capacity and without premeditation.	20
	(b)	Crime committed as above with premeditation, either individually or by a gang.	22
4.		MURDERS FOR OTHER REASONS.	
	(a)	Where the murder is committed without premeditation in an individual capacity and the person has no previous criminal history.	20
	(b)	Murder committed with premeditation, or a person having	22

		criminal history.	
	(c)	Murder resulting from trade union activities and business rivalry.	22
	(d)	Murder committed by more than one person/group of persons.	24
	(e)	Murder committed with exceptional violence/brutality/kidnapping. Murders committed by dacoits and robbers in the act of committing dacoities and robberies. Murder committed by bootleggers, gamblers, flesh traders etc.	26
5.		MURDER FOR POLITICAL REASONS.	
	(a)	Murders arising out of political rivalry and political interest without premeditation	24
	(b)	Murder arising out of political rivalry and political interest, with premeditation.	26
6.		MURDER FOR SERIOUS OFFENCES.	
	(a)	Murder committed by Gangsters, Contract killers, Racketeers etc.	28
	(b)	Persons already convicted for life and is convicted again for murder.	30
	(c)	Convict awarded more than one life sentenced and sentences running concurrently.	30
	(d)	Prisoners whose death sentence has been commuted to life imprisonment.	30
7.		PUNISHMENT UNDER THE SPECIAL ACTS SUCH AS TADA, MCOCA, POTA FOR MURDER.	
		Offences committed against the State/ Offences committed by extremists/ terrorists / Organised crimes or similar nature of offences :-	
	(a)	Convict awarded one life sentence.	40
	(b)	Convict awarded two life sentences and sentences running	50

		concurrently.	
	(c)	Convict awarded more than two life sentence and sentences running concurrently.	60
8.		Any other such offences which are of exceptional / heinous nature and not specifically covered in the above categories.	The State Government will decide individual cases on merit.

Annexure II

PERSONS GUILTY OF OFFENCES NOT INVOLVING MURDER WHO ARE SENTENCED TO LIFE IMPRISONMENT WHERE SECTION 433 (A) OF CRPC IS NOT APPLICABLE.

Category	I.P.C. Section	Nature of Offence	Period of imprisonment to be undergone including remissions subject to the minimum of 10 years of actual imprisonment including set off period.
1	304, 304(a), 307	Persons guilty of homicides not amounting to murder, causing death by negligence, attempt to murder etc.	14
2	304(b)	Persons guilty of causing Death for Dowry.	20
3	311	Persons guilty under this section. (Thugs)	14
4(a)	313, 314	Persons guilty of causing miscarriage of unborn child without woman's consent or any such act which results in her death.	14
4(b)		In case such victim is minor.	16
5	326, 329	Persons guilty of causing grievous hurt under these sections.	14
6	363 (A)(2)	Persons guilty of kidnapping for maiming.	18
7(a)	364	Persons guilty of kidnapping for ransom.	16
7(b)	364	In such case victim is minor.	18

8(a)	376	Persons guilty in Rape cases.	18
8(b)	376	Where victim is minor.	20
8(c)	376(1)	Rape of physically handicapped or mentally retarded female, pregnant woman, gang rape or custodial rape.	22
9	388to 400	Persons guilty of extortion, robbery, dacoity etc under these sections.	14
10	409	Persons guilty of criminal breach of trust under this section.	14
11	412, 413	Person guilty of offences related to stolen property under these sections.	14
12	436, 438	Person guilty of mischief described under these section	14
13	449	Person guilty of house-tress pass in order to commit offence punishable with death.	20
14	459	Person guilty of causing grievous hurt whilst committing house-break or house tress pass.	14
15	460	Person guilty of causing grievous hurt or death while committing of house-tress pass or house breaking.	18
16	467, 472, 474, 475, 489A, 489B, 489D	Person guilty of forgery or counterfeit substances etc.	14
17	222, 225	Persons guilty of offences described under these sections.	20
18	232, 238, 255	Offences relating to of coin and Government Stamps, Counterfeiting Government Stamp.	20
19		Offences against the State.	30
20		Offences by extremists / terrorists / organised crimes or similar nature of offences.	40
21		Any other such offences which are not specifically covered in above categories.	The State Government will decide individual cases on merit.

15. The present application pertains to categorisation of the petitioner No.1. Learned APP, supporting the stand of the State Government urged that the cantankerous nature of the petitioner No.1's mother as well as the bald allegations made against the respondents should be an important factor weighing with this Court in dismissing the application. It is submitted that the conduct of the petitioner No.1 as well as her mother cannot be ignored. We must bear in mind that since the question of liberty of the petitioner No.1 involved, a broad approach has to be adopted. Assistance the learned Amicus was sought to present the petitioner No.1's case. Despite the presence of the Amicus, the petitioner No.1's mother has been insisting that since it is the question of release of her daughter who is languishing in jail, she should be permitted to make submissions. We do find substance in the concern raised by the learned APP about the manner in which applications after applications are being filed. We have therefore heard the learned APP on the aspect of categorisation since the question of liberty of the petitioner No.1 is involved. No doubt the allegation made against the petitioners is very serious. Learned APP has taken pains to point out the gruesome manner in which the offence took place and that even against the order under

Section 302 of IPC the SLP is pending before the Hon'ble Supreme Court. The question before us is whether we should defer the consideration of this application till the SLP is decided as urged by the learned APP; or if on behalf of the petitioners a case is made out that the petitioner No.1 is wrongly categorised, should this Court proceed to pass appropriate orders subject to imposing appropriate conditions.

16. It is the submission on behalf of the petitioner No.1 that the impugned order cannot be sustained as category 7(a) / 6(d) has been wrongly applied by the respondent. Category 7(a) of the GR dated 11th May 1992 reads as under :-

“7. DEATH SENTENCE COMMUTED TO LIFE IMPRISONMENT :-

- a) Prisoners in whose cases death sentence has been commuted to life imprisonment. 30 years.

17. Category 6(d) of the GR dated 15th March 2010 reads as under :-

“6. MURDER FOR SERIOUS OFFENCES :-

- d) Prisoners whose death sentence has been commuted to life imprisonment. 30 years

18. In our view the aforesaid categories would be applicable

if the offence of murder was proved against the petitioner No.1. In the present case the petitioner No.1 was acquitted of the charge punishable under Section 302 of IPC and was convicted under Section 364A and sentenced to suffer imprisonment for life. Therefore, category 7(a) of the 1992 GR will have no application.

19. So far as category 6(d) is concerned, we are of the view that the same will be applicable if charge punishable under Section 302 of IPC stands proved. In the light of the judgment and order of this Court in appeal, the petitioner No.1 was acquitted of the charge of murder. Therefore, category 6(d) or even Annexure-I of the 2010 GR has no application to the case of the petitioner No.1.

20. The government policy formulated by respondent No.1 vide GR dated 15th March 2010, essentially makes two compartments, namely, Annexure-I and Annexure-II. Annexure-I deals with “Offences Involving Murders”, whereas Annexure-II deals with “Offences Not Involving Murders”; the case of petitioner No.1 will not fall within Annexure-I as she was acquitted from the charge of murder.

21. It is pertinent to note that category 7(a) of Annexure-II speaks of conviction under Section 364 of IPC but does not make

provision for conviction under Section 364A of IPC. The title of category 7(a) mentions “Section 364”, but in the body provides for “persons guilty of kidnapping for ransom”. Section 364 of IPC does not speak of “Ransom”, but Section 364A does mention ransom. Thus, we find and as submitted by learned Amicus, the category leaves an ambiguity in heading of the section and in the description provided for.

22. In this context and with a view to substantiate the applicability of category 7(a), it would be extremely important to rely upon the decision of the Hon’ble Supreme Court in *M/s. Frick India Ltd. vs. Union of India and Ors.*¹. Their Lordships in paragraph 8 have observed as under :-

“8. It is well-settled that the headings prefixed to sections or entries cannot control the plain words of the provision; they cannot also be referred to for the purpose of construing the provision when the words used in the provision are clear and unambiguous; nor can they be used for cutting down the plain meaning of the words in the provision. Only, in the case of ambiguity or doubt the heading or sub-heading may be referred to as an aid in construing the provision but even in such a case it could not be used for cutting down the wide application of the clear words used in the provision. Sub-item (3) so construed is wide in its application and all parts of refrigerating and air-conditioning appliances and machines whether they are covered or not covered under sub-items (1) and (2) would be clearly covered under that sub-item. Therefore, whether the manufacturer supplied the refrigerating or air-conditioning appliances as a complete unit or not is not relevant for the levy of duty on the parts specified in sub-item (3) of Item 29A.”

¹ (1990) 1 SCC 400

23. No doubt the decision of the Hon'ble Supreme Court was in the context of levy of duty under the Central Excise Act. The principle laid down in the context of ambiguity or doubt in the heading or sub-heading whether could be used as an aid and construing the provision is extremely significant. Applying the principle laid down by the Hon'ble Supreme Court, though there is no specific mention of Section 364A in category 7(a), the plain words of the provision speak of "persons guilty of kidnapping for ransom" and provides for 16 years of imprisonment inclusive of remissions subject to minimum of 10 years of actual imprisonment including set-off period. Thus, if category 7(a) of Annexure-II of GR dated 15th March 2010 is applied, petitioner No.1 becomes entitled to be released upon completion of 16 years of imprisonment with remissions.

24. Let us consider the matter from another angle. Had the petitioner been held guilty of the offence punishable under Section 302 of IPC, at the highest, her case would have been covered under category 1(b) of Annexure-I of GR dated 15th March 2010 as it would have been "Murder with Premeditation". Annexure-I to the GR dated 15th March 2010 provides for a category in respect of offences relating to crime by women. Category 1(b) provides the

categorisation of crime as “where the convict has committed the murder with premeditation” the period of imprisonment to be undergone including remissions subject to a minimum 14 years of actual imprisonment including set-off period is 20 years.

25. The GR provides for a period of 20 years of imprisonment with remission for the offence covered under category 1(b). In the present case, petitioner No.1 is not convicted for murder. Had there been conviction under Section 302, petitioner No.1 would have got the benefit of provision contained in category 1(b) and would have been released upon completion of 20 years of imprisonment with remissions. Factually the petitioner No.1 has completed 20 years of actual imprisonment and 26 years of imprisonment with remissions as on 30th September 2026. Thus, the categorisation under the GR cannot be read in a manner where a woman convict for a more serious offence is released upon completion of less number of years of imprisonment than a woman convicted for a lesser offence.

26. We are inclined to hold that the categorisation of the petitioner No.1 for release is not correct. In our humble opinion the benefit of the GR must be granted in favour of the petitioner No.1 if the conditions in the GR are fulfilled and having regard to

the facts of the present case where the petitioner No.1 has completed 20 years of actual imprisonment and 26 years of imprisonment with remissions as on 30th September 2026. Such release is obviously subject to the decision of the Hon'ble Supreme Court in the pending appeal filed by the State in which case the categorisation can be revisited by the State depending upon the final outcome of the pending appeal.

27. We are inclined to impose conditions while releasing the petitioner No.1. In our opinion and as rightly submitted by the learned APP, the object of premature release has to be borne in mind. Considering life convict for premature release serves the purpose of showing mercy to the prisoner and helping his rehabilitation, if he demonstrates good conduct or in case of change of conditions or special conditions. These are factors which are borne in mind by the Government while considering the premature release. Section 433 of CrPC confers power on the Government to commute sentence without consent of the convict. Section 433A of CrPC imposes restriction on the powers of remission or commutation and mandates undergoing at least 14 years' imprisonment to be eligible for commutation. Section 435 of CrPC mandates State Government to act in consultation with

the Central Government in certain cases. In consonance with the powers vested in it vide Section 433A of CrPC, various guidelines were issued by the Government from time to time for categorisation of the crime with corresponding total periods of imprisonment, right from 1971 till date. These guidelines lay down a broad division of the patterns of crimes for the purpose of premature release of prisoners sentenced to imprisonment for life. Keeping the object of premature release in mind and in view of the pending appeal before the Hon'ble Supreme Court, in our considered opinion, it is necessary for us to impose conditions while releasing the petitioner No.1.

28. We are not really satisfied with the manner in which applications after applications are made by petitioner No.1. The respondents were compelled to comment on the conduct of the petitioners and their stand cannot be said to be unreasonable. However, considering that the personal liberty of the petitioner No.1 is involved, we refrain from making any observations. Having formed an opinion that the petitioner can be released prematurely in view of the GRs issued from time to time, all the pending applications are disposed of without making any observations.

29. We are inclined to impose the following conditions while releasing the petitioner No.1.

ORDER

(i) The order dated 22nd September 2025 passed by the respondent categorising the petitioner is quashed and set aside.

(ii) The respondent is directed to release the petitioner No.1 upon executing personal bond in the sum of Rs.50,000/- with one or two sureties of the like amount.

(iii) The petitioner No.1 shall provide her residential address and contact details to the Superintendent, Yerwada Central Prison, Pune where she intends to reside after her release from prison.

(iv) Upon her release from prison, the petitioner No.1 shall attend the police station nearest to the place of her residence on the first Monday of every three months between 11:00 a.m. to 1:00 p.m. commencing November 2026 subject to the decision of the Hon'ble Supreme Court in the pending appeal.

(v) The petitioner No.1 shall not leave India without the prior permission of this Court.

(vi) It is made clear that this order is subject to the decision of the order and directions of the Hon'ble Supreme Court in the pending appeal.

(vii) Liberty of the State to revisit the issue of categorisation is kept open after the decision of the SLP/appeal before the Hon'ble Supreme Court.

30. The Interim Application (Stamp) No.23167 of 2025 is disposed of.

31. The writ petition as well as all pending criminal applications stand disposed of.

32. We really appreciate the assistance rendered by Mr. Gawankar, learned Amicus Curiae in deciding this writ petition.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)