

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1023 OF 2016

Baburao Punjaji Wakale

... Petitioner

Vs.

The State of Maharashtra

... Respondent

Mr.Yashpal Thakur, advocate appointed for the Petitioner

Mr.H.J. Dedia, APP, for Respondent – State

CORAM: **SMT. V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.**

DATE: **JULY 27, 2016**

ORAL ORDER (PER SMT.V.K. TAHILRAMANI, J.):

1. Heard both sides.
2. Rule. By consent, Rule is made returnable forthwith.
3. The petitioner has been convicted under section 302 of the Indian Penal Code and sentenced to life imprisonment by the trial Court. Being aggrieved thereby, the petitioner preferred Appeal No.329 of 2001. By judgment and order dated 19.4.2005, the conviction under section 302 and the sentence of life imprisonment was maintained. The petitioner is now seeking premature release under section 432 of the Code of Criminal Procedure.

4. The learned APP on instructions states that the petitioner has been placed in category 3(d) of the 1992 Guidelines. Category 3 deals with murders for other reasons and 3(d) deals with murder committed with pre-meditation and with exceptional violence or perversity. We have gone through the papers relating to this case and more specifically, the judgment in Criminal Appeal No.329 of 2001. Copy of the judgment is taken on record and marked 'X' for identification. Though in the said judgment, it is reflected that the petitioner set his wife on fire, in the judgment, it is also reflected that the petitioner caused the death of his wife as he was enraged by the doubt expressed by his wife. Looking to the facts of this case, it does not appear to be a case of pre-meditation nor can it be said that it is a case of exceptional violence or perversity. Hence, clearly, the petitioner has been erroneously placed in category 3(d).

5. Looking to the facts of this case, we are of the opinion that the petitioner would fall in category 2(c) of 2010 Guidelines. Category 2 deals with offences relating to crime against women and minors. Category 2(c) deals with cases where the crime is committed with exceptional violence and/or with brutality or death of victim due to burns. In the present case, the petitioner has committed a crime against a woman i.e., his wife and he has set her on fire. So, it is clearly a case of death of a woman due to burns. Category 2(c) provides for premature release after completing 26 years with remission. The petitioner had been placed in category 3(d)

which also provided for release after 26 years of imprisonment including remission. Category 2(c) also provides for release after 26 years of imprisonment including remission. Though the number of years after which the petitioner will be released remains the same, however, the category in which the petitioner was placed i.e., 3(d) is incorrect. Hence, the petitioner is placed in category 2(c). The concerned authority to carry out necessary correction. The petitioner to be released on completing 26 years of imprisonment including remission provided that the petitioner has completed 14 years of actual imprisonment. If this period is calculated, the probable date of release of the petitioner would be February, 2017. Thus, as of today we are not inclined to prematurely release the petitioner, hence, Rule is discharged.

6. Fees to be paid to the appointed advocate are quantified at Rs.2,500/-.

7. Office to communicate this order to the petitioner who is in Yerwada Central Prison, Pune.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)