

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4077 OF 2017

Adhik Shivaji Pawar	.. Petitioner
Vs.	
The State of Maharashtra	.. Respondent

Mr. Prosper D'Souza, for the Petitioner.
Mrs. G.P. Mulekar, APP for State.

**CORAM : SMT. V.K.TAHILRAMANI &
M.S.KARNIK, JJ.**

20th NOVEMBER, 2017

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

1. Heard both sides.
2. The petitioner is a convict undergoing life imprisonment in open prison at Yerawada Open Prison, Pune. The petitioner had admittedly, as of 31/10/2007, undergone actual imprisonment of 14 years 2 months and 29 days and with remission, the petitioner has undergone 21 years 5 months and 20 days. The jail record of the petitioner which show the above fact are taken on record and marked 'X' for identification.

3. The petitioner is seeking the benefit of the circular dated 03/06/2017. This circular states that on account of 125th birth anniversary of Dr.Babasaheb Ambedkar, the State is granting remission to the prisoners under section 432 (1) of CrPC. The said circular provides that those who are undergoing life imprisonment would get 3 months of State remission.

4. Learned Counsel for the petitioner states that as the petitioner is undergoing life imprisonment, he would be eligible for 3 months State remission. However, the petitioner has been denied the same.

5. In reply, learned APP stated that the very same circular states that the said remission would be granted after taking opinion from the Court. She submitted that they had sought the opinion from the Sessions Court, Sangli and by letter dated 13/07/2017, they were informed by the Session Court that in its opinion, it was not just, proper and desirable case to give benefit to the convict i.e. the petitioner.

6. We have perused the said communication dated 13/07/2017. It does not state any reason for refusing remission to the petitioner. It only states that looking to the case in which the petitioner is convicted, he should not be given the benefit of 3 months State remission.

7. As per circular dated 03/06/2017 prisoners falling in 6 categories mentioned therein would not get the benefit of the said circular. We have gone through the order of the Sessions Court and we find that the case of the petitioner does not fall in any of the categories which are stated in the circular dated 03/06/2017. The petitioner admittedly does not fall under any of the six categories mentioned in the circular. In this view of the matter, we are of the opinion that State remission of 3 months as envisaged by circular dated 03/06/2017 ought to be granted to the petitioner, accordingly Rule is made absolute.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)