IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL W.P.NO. 5311 OF 2017

	Amarshi Ramji Rathod Age 54 years, Presently lodged as C/564, Yerawada Central Prison, Pune – 411006	.. Petitioner
	Vs.	
1.	The State of Maharashtra	
2.	The Under Secretary, Home Deptt. (Prison-3) Govt. of Maharashtra, Mantralaya, Mumbai.	.. Respondents

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Ms. Rohini Dandekar Advocate appointed for Petitioner
Mr. Arfan Sait A.P.P. for State

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CORAM : SMT.V.K.TAHILRAMANI ACTING C.J.
AND M.S.SONAK, J.
DATED : MARCH 21, 2018

ORAL JUDGMENT [PER SMT. V.K.TAHILRAMANI, J.]:

1 Heard both sides.

2 The petitioner is undergoing life imprisonment in Yerawada Open Prison, Pune. The petitioner is seeking premature release.

3 It is an admitted fact that the petitioner has undergone 14 years of actual imprisonment. His case for

premature release has been categorized by the Government and he has been placed in category 2(c) of the 2010 Guidelines and category 1(d) of the 1992 Guidelines. Category 1(e) of the Guidelines states that prisoner would be released from prison after completing 28 years of imprisonment including remission provided he has completed 14 years of actual imprisonment. The petitioner has completed 26 years of imprisonment including remission. Category 2(c) of the 2010 Guidelines states that the prisoner will be released from prison after completing 26 years of imprisonment including remission provided that he has completed minimum 14 years of actual imprisonment.

4 The Supreme Court in the decision of ***State of Haryana Vs. Jagdish; AIR 2010 SC 1690***, has held that whichever category is more beneficial to the prisoner, the same ought to be applied. In the present case, category 2(c) of the 2010 Guidelines would be more beneficial to the petitioner as it states that the prisoner who has completed 26 years of imprisonment including remission, would be entitled to be released from prison. Category 2 of the 2010 Guidelines deals

with persons committing offence relating to crime against women and minors. Category 2(c) of the said Guidelines states the period of imprisonment to be undergone by the prisoner when the crime is committed with exceptional violence or brutality or death of victim due to burns. In the present case, the petitioner has set his wife on fire. She had sustained 90% burn injuries, due to which, she died. Thus, the petitioner is squarely covered by category 2(c) of the 2010 Guidelines. Looking to the facts of the present case, we are of the opinion that the petitioner has been rightly categorized and his case would be covered by 2(c) of the 2010 Guidelines. In such case, the petitioner will be released from prison on completing 26 years of imprisonment including remission. Thus, at this stage, we find no reason to interfere. Rule is discharged. Petition is dismissed.

5 Office to communicate this order to the petitioner who is in Yerawada Open Prison, Pune.

M.S.SONAK, J. **ACTING CHIEF JUSTICE**

kandarkar