

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.278 OF 2018

[Dnyaneshwar s/o Laxman Waghe .vs. State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.H. Samundre, counsel for the petitioner,
Shri A.M. Joshi, APP for the respondents.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 09, 2018.

Heard.

By this criminal writ petition the petitioner challenges the order of his categorization and seeks to be categorized under Clause 2 (b) of the Government Resolution dated 15.3.2010 for his premature release.

The petitioner had committed the murder of his wife with an axe. Certain guidelines are laid down for the premature release of the prisoners by the Government Resolution dated 15.3.2010. Guideline no.2 pertains to offences relating to crime against women and minors. The petitioner has no doubt committed a crime against women as he has murdered his wife with an axe.

According to the learned counsel for the petitioner, the petitioner may have committed the offence of murder with premeditation but the crime is not committed by the petitioner with exceptional violence and/or with brutality and the death of victim is also not caused due to burns. It is stated that in view of the aforesaid, the petitioner is entitled for premature release in view of the guideline no.2(b) of the Government Resolution dated 15.3.2010 rather than Clause 2(c). It is stated that the petitioner should be released after 22 years of imprisonment and

not after 26 years in view of the Government Resolution dated 15.3.2010.

According to the learned APP, the categorization of the petitioner was rightly made under Clause 2(c) in the Government Resolution dated 15.3.2010. It is stated that five injuries were inflicted by the petitioner on his wife by axe, as a result of which, the wife of the petitioner had died.

No doubt, the weapon used by the petitioner to kill his wife was an axe and the petitioner may have intended to commit the murder of his wife and may have had the knowledge that if he inflicts injury on the neck of his wife by an axe, she is likely to die. The offence is surely committed by the petitioner with premeditation, however, that would fall under Clause 2 (b) of the Government Resolution dated 15.3.2010. The crime is not committed by the petitioner with exceptional violence and/or brutality. In this view of the matter, the petitioner would be entitled to be released under Clause 2 (b) of the Government Resolution after undergoing the sentence of 22 years of imprisonment. Since it is stated on behalf of the petitioner that the petitioner has already undergone the imprisonment of more than 22 years, the respondents may take immediate step for his release after completing the formalities .

With the aforesaid observations and directions, we dispose of the criminal writ petition by quashing and setting aside the impugned order. Order accordingly.

JUDGE

JUDGE