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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.847 OF 2019
(THROUGH JAIL)

Vitthal Shivaji Pawar

... Petitioner

Vs.

The State of Maharashtra

... Respondent

None for the Petitioner.

Mr. Arfan Sait, APP for the Respondent.

CORAM : A.S.OKA AND
A.S. GADKARI, JJ.

DATE : 27th FEBRUARY 2019.

P.C. :

1 Rule. The learned APP waives service. Heard the learned APP.
2 The petitioner who has filed this petition through jail is undergoing life imprisonment. He applied for grant of State remission under the Government circular dated 3rd June 2017 which was issued on account of 125th Birth Anniversary of Dr. Babasaheb Ambedkar. Initially, in the said circular, those who were convicted under the Central statutes were excluded from the benefit of State remission. However, by the Government circular dated 19th November 2006, the said clause was modified and it was provided that only those who are convicted for the offences covered by sub-section (2) of section 435 of the Code of Criminal Procedure, 1973 shall stand excluded. In the present case, the benefit of State remission is denied on the basis of judicial appraisal dated 6th April

2018 made by the learned Additional Sessions Judge, Satara wherein he has observed that as the petitioner has been convicted under sections 302, 307 r/w 34 of the Indian Penal Code and that the said Code being Central statute, the petitioner is dis-entitled to benefit of remission.

3 After the judicial appraisal was made, on 19th November 2018 the modified circular has been issued. Therefore, the learned Judge did not have the benefit of the said circular.

4 Therefore, the case of the petitioner will have to be considered afresh. Accordingly, we pass the following order :-

ORDER

- (i) We direct the respondent to send the case of the petitioner for fresh judicial appraisal as regards grant of State remission under the Government circular dated 3rd June 2017 as modified on 19th November 2018. The learned Sessions Judge will make an appraisal to decide whether the case of the petitioner is governed by the said circulars;
- (ii) On receiving a fresh judicial appraisal, the State Government shall take appropriate decision regarding grant of remission within a period of one month from the date on which the judicial appraisal is received;
- (iii) Rule is made partly absolute on above terms;
- (iv) Copy of this order shall be forwarded to the petitioner through the concerned Jail Superintendent.

(A.S. GADKARI, J.)

(A.S.OKA, J.)