

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3792 OF 2017

Raju Suresh Chavan

...Petitioner

vs.

The State of Maharashtra

...Respondent

Mr. Kuldeep Patil for the Petitioner.

Mr. Arfan Sait, APP for the Respondent.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.
DATE : 16/07/2019.**

P.C.:

. Heard learned counsel and learned APP. Convict under section 302 read with 34 is completing his prison term in next 2-3 months.

2. In this situation, learned counsel Patil has urged the Court to decide challenge based only upon categorization of petitioner. According to him he should have been released under category 4(b) of the guidelines issued on 15/3/2010 and therefore should have been released after completing 22 years in prison.

3. Learned APP is opposing this submission. According to him the impugned order dated 14/6/2017 places the petitioner in category 3(b) as per 31/5/1992 guidelines or then under category 4(d) as per 15/3/2010 guidelines. He submits that other categories particularly 4(b) of 15/3/2010 guidelines is not relevant here.

4. During argument the parties do not dispute the principle that

guidelines which are more favourable must govern the case of the present petitioner. The crime has taken place on 5/11/2001 and the Sessions Court at Pune has on 3/10/2003 inflicted punishment of life imprisonment under section 302 , 307, 324 r/w 34 of IPC on the present petitioner and the co-accused. It was found that on account of previous enmity with deceased, the murder was committed.

5. Perusal of guidelines issued on 31/5/1992 shows that the murders relating to sexual grounds or then arising out of relationship with woman are placed in first category and murders arising out of land dispute, family dispute etc are placed in second category. Third category deals with residuary murders. There, in category (a), when murder is committed during course of quarrel without premeditation, if life imprisonment is inflicted the convict is supposed to undergo 22 years of imprisonment. In category (b) if the murder in above circumstances is after premeditation or by gang, he has to put in 24 years of imprisonment. In category (c) murders relating to Trade Union activities and business rivalry are looked into and the convict has to put in 26 years. Lastly murders committed with premeditation and with exceptional violence or perversity are stipulated and the prisoner has to undergo 26 years of imprisonment.

6. In guidelines issued on 15/3/2010, in category (4), murders for other reasons are looked into. There, in category (a), murders committed without premeditation in individual capacity are provided for and in category (b) murders committed with premeditation or then by a person having criminal history are looked into. Such prisoner has to put in 22 years in prison. In category (d) murder committed by more than one person/group of persons has been looked into. There the prisoner has to put in 24 years of imprisonment.

7. Thus in category (4) in policy dated 15/3/2010 vide clause (b) murder committed without premeditation or by a person having criminal history has been treated distinctly from murder committed by more than one person/group of persons. Legislative wisdom in this policy cannot be looked into in this jurisdiction and has not been assailed.

8. The murder in this matter on 5/11/2001 was by two persons and therefore it does not fall in category 4(b). It has been correctly placed under clause 4(d) of 15/3/2010 guidelines.

9. Thus, we do not find any error in impugned order dated 14/6/2017. The petition is therefore dismissed. No costs.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)