

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5468 OF 2017

Sahebrao Gorakh Bhandare ... Petitioner

Versus

State of Maharashtra ... Respondents

Mr. Vikas Singh for the Petitioner.

Mrs. P.P.Shinde, APP for the respondent State.

**CORAM : B.P. DHARMADHIKARI &
P.D. NAIK, JJ.**

DATE : MARCH 11, 2019

P.C.:

The application is received through jail. There is no appearance for the petitioner. This court has on 11/1/2019 indicated that the matter shall be disposed of finally on 6/2/2019.

2. Learned APP is seeking time as the instructions are still awaited. On 8/2/2019, this Court has directed the learned APP to produce copy of the judgment dated 2/2/2005. The said copy is also not produced.

3. Learned APP at this juncture upon instructions from the respondent states that with all remissions, the petitioner has completed 23 years, 5 months and 27 days. According to her, the

case of the petitioner needs to be categorized in Annexure I category 2 (c) of the Government resolution dated 15/3/2010. She points out that the death is caused by burning and State be given time to complete the exercise of categorization as per law.

4. Learned counsel appearing for the petitioner (appointed) invites our attention to the facts as narrated by the Research Officer of the respondent. According to report, the deceased had gone to the house of the petitioner and demanded wages payable to her son Ganesh. The accused poured kerosene on per person and set her on fire. He submits that there was no premeditation and the incident occurred on the spur of moment. He therefore, submits that the categorization has to be under clause (4)(a).

5. Admittedly the application moved by the petitioner is still pending. This court has asked the respondent to make available the copy of the judgment. That judgment has not been produced. We do not find any difficulty in accepting the facts as mentioned by the Officer of respondent in the communication to superior. Exercise of categorization is to be completed on its basis.

6. The facts therefore, show that the murder has been committed without the premeditation and it is in individual capacity. The accused (convict) has no previous criminal history.

Categorization therefore, has to be under clause 4(a). The facts show that the petitioner has already completed his jail term. We therefore, direct the respondent to set him at liberty forthwith if his custody is not required in any other crime. Petition is disposed of. Registry is directed to communicate this order to Kolhapur Central Prison forthwith.

(P.D. NAIK, J.)

(B.P. DHARMADHIKARI, J.)