

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

CRIMINAL WRIT PETITION NO.23 OF 2019

(Mohd. Salim Mohd. Ijaj Khan Pathan vs. State of Maharashtra and another)

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

Mrs. L.Y. Malewar, Advocate (appointed) for petitioner.
Shri M.K. Pathan, Additional Public Prosecutor for
respondents.

CORAM : P.N. DESHMUKH AND
 PUSHPA V. GANEDIWALA, JJ.

DATED : JUNE 4, 2019

Heard Mrs. Malewar, learned Counsel for
petitioner, and Shri Pathan, learned Additional Public
Prosecutor for respondents.

Prayer in this petition is to direct the
respondents to release petitioner in view of notification
dated 18/7/2018 issued in commemoration of 150th
Birth Anniversary of Mahatma Gandhi from 2/10/2018.

Admittedly, it is the case of the petitioner
that celebrating said Anniversary, Central Government
has issued notification on 31/7/2018 granting special
remission to specific categories of prisoners. According
to said notification, prisoners can be released in three
phases. The first such phase is scheduled from
2/10/2018, second phase is scheduled from 6/4/2019
and third phase is scheduled from 2/10/2019.

From the affidavit-in-reply of the
respondents it is noted that as per Government

Resolution dated 21/7/2018, all such prisoners, who have undergone 66% of their sentence are held to be entitled for grant of remission. In the case in hand, petitioner has stated to have undergone 66% of actual sentence and, therefore, his case is forwarded to State Government for due consideration for grant of remission. However, according to reply, as there were Parliament's elections and model Code of Conduct was in force, no decision could be taken on such recommendation.

Admittedly, now such elections are over and the entire process is complete. In that view of the matter, we find no purpose in keeping the petition pending and, therefore, pass the following order :

Respondent no.1 to consider the recommendations forwarded for grant of benefit to petitioner as aforesaid within a reasonable period and in any case within four weeks from today. Needless to say that in the event decision goes against the petitioner, he will be at liberty to avail remedies available in law. The petition stands disposed of.

The fee payable to learned Counsel appointed for petitioner is quantified as rupees fifteen hundred.

JUDGE

JUDGE

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