

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

CRIMINAL WRIT PETITION (CWP) NO. 152 OF 2019

(Sheikh Rahim Sheikh Karim (C-423) detained in Morshi Open Prison, District - Amravati
vs. The State of Maharashtra thr. Secretary, Home Department (Prisons) & Anr.)

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

Court's or Judge's orders.

Mrs. Seema P. Dhotre, Advocate for the petitioner.
Ms. T.H. Udeshi, APP for the respondents.

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**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
JULY 29, 2019.**

The order dated 13.12.2018 passed by
respondent No. 1 is challenged in this petition.

We have heard Mrs. Seema P. Dhotre,
learned counsel for the petitioner and Ms. T. Udeshi,
learned APP for the respondents.

It is submitted on behalf of the petitioner
that the petitioner being a life convict for the offence
punishable under Sections 302 and 498-A of the
Indian Penal Code, is undergoing life imprisonment
vide judgment dated 13.10.2005.

On his application for premature release,
he has been categorized under Category 1(e) for 28
years as per old guidelines and under category 4(e)
for 26 years under new guidelines dated 15.03.2010.

It is submitted that the respondent has wrongly categorized the petitioner under the said clause. As per learned counsel, as per new guidelines, his case clearly falls under category 4(a) for 20 years. The learned counsel also brought to the notice of this court the recommendation of the learned Principal District & Sessions Judge, Buldhana, recommending the case of the petitioner to category 2(a) of the guidelines.

We have considered the submissions made on behalf of both the parties. We have perused the judgment dated 13.10.2005. We are convinced that the case of the petitioner clearly falls under the category of 2(a) and 4(a) for 20 years as per new guidelines dated 15.03.2010. The offence is against the woman in an individual capacity in a moment of anger and without premeditation.

The impugned order dated 13.12.2018, therefore, does not appear to be passed by taking into consideration the aforesaid guidelines. In that view of the matter, the same is to be quashed and set aside and accordingly the same is quashed and set aside.

We allow Criminal Writ Petition in terms of prayer clause (c).

JUDGE

JUDGE

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