

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

CRIMINAL WRIT PETITION NO.215/2019

Shivlal S/o Natthuji Veerghat,
 Convict No.C-10, detained in Open
 Prison, Amravati.

..Petitioner.

..V/s..

1. State of Maharashtra,
 through its Secretary, Home Department,
 Mantralaya, Mumbai - 32.
2. Superintendent of Central Prison,
 Amravati.
3. District and Sessions Judge,
 Khamgaon.

..Respondents.

 Shri J.K. Matala, Advocate (appointed) for the petitioner.
 Ms. N.H. Tripathi, A.P.P. for the respondents.

CORAM : Z.A. HAQ AND VINAY JOSHI, JJ.
DATED : 12.4.2019.

ORAL JUDGMENT *(Per Vinay Joshi, J.)*

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of the parties.

2. The petitioner is seeking the benefit of remission in terms of government resolution dated 3rd June, 2017. The petitioner is convicted under Section 302 of the Indian Penal Code by judgment and order passed on 2nd

July, 2005 in Sessions Trial No.53/2004 and is undergoing life imprisonment. The petitioner contends that he has completed 14 years of imprisonment and, therefore, he is entitled for the remission as per the said government resolution.

3. The State resisted this petition on the premises that there is adverse report of learned Additional Sessions Judge and once petitioner surrendered late when was released on furlough.

4. We have examined the petitioner's case in the light of government resolution dated 3rd June, 2017. The petitioner has already undergone 14 years of imprisonment. The petitioner does not fall in the category No.(i) to (vi) which makes the prisoner disentitled for the remission. The learned Sessions Judge in his opinion has not specified that the petitioner is falling in the exceptional category carved out in the government resolution dated 3rd June, 2017 but has stated about categorization as per government resolution dated 15th March, 2010 which is not relevant for our purpose. True, the petitioner was late in surrendering, but only by one day which does not impress us to make petitioner disentitled for remission scheme which is floated for specific purpose. In the situation, we see no reason to reject this petition.

5. The petition is **allowed**.

It is declared that petitioner is entitled to receive remission of three months in terms of government resolution dated 3rd June, 2017.

The fees of learned Advocate appointed to represent the petitioner be paid as per rules.

Rule is made absolute in the above terms.

JUDGE

JUDGE

Tambaskar.