

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

WRIT PETITION NO. 5435 OF 2019

Yusuf Sherbahadur Khan

...Petitioner

Vs.

The State of Maharashtra

...Respondent

Mr. Brijesh R. Pathak for the petitioner.
Smt. S.D.Shinde, APP for the State.

**CORAM : B. P DHARMADHIKARI &
N.R.BORKAR, JJ.**

DATE : 14TH JANUARY, 2020.

P.C.:

Heard Learned Counsel (appointed) and Learned APP

2. Perused papers. The prisoner convicted on 4th May, 2009, is seeking benefit of Remission Scheme floated on the eve of 125th Birth Anniversary of Dr. Babasaheb Ambedkar. Additional Sessions Judge, City Civil and Sessions Court, Greater Mumbai has vide communication dated 6th January, 2018 found that since he has not put in 14 years of imprisonment, he is not entitled to premature release. In that order, it is mentioned that as per the policy of categorization, he is entitled to be placed in category 4(d) and therefore, has to put in minimum sentence

of 24 years.

3. Categorization and benefit of Remission Scheme are two distinct aspects. The Remission Scheme floated on 3rd June, 2017 has been made applicable from 14th April, 2016 i.e. the day of birth anniversary of Dr. Babasaheb Ambedkar. The order of premature release can be passed as per categorization and issue of categorization is normally looked into after a prisoner has put in 14 years in jail. Remission as per above mentioned scheme is available also to a convict who has been also sentenced to only three months of conviction.

4. The nominal roll supplied by Superintendent of Yerwada Central Prison dated 27th September, 2019 shows that after date of imprisonment, he has suffered actual imprisonment of 10 years 2 months 27 days. He wants an under-trial prisoners for 5 years, 1 month and 14 days before his conviction. Chart also mentions that, therefore, actual imprisonment suffered by him then was 15 years 5 months 11 days. During said period, he has earned remission of 3 years 9 months 6 days. Thus, alongwith remission, he has on 31st July, 2019, put in about 19 years 2 months and 17 days in prison.

5. As per above mentioned policy decision dated 3rd June, 2017 as he is life convict, he is entitled to remission of three months on account of above mentioned Remission Scheme. We, therefore, direct respondents to extend to him benefit of that remission scheme and to work out his date of release. Petition is accordingly allowed and disposed of.

6. Order be communicated to prisoner in jail.

(N.R.BORKAR, J.)

(B. P. DHARMADHIKARI, J.)