

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

CRIMINAL WRIT PETITION NO.105/2020

PETITIONER : Jitendra Dayaram Jangam
R/o. Awasti Nagar, Shrivasti Nagar,
Wadpakad, Nara Road, Nagpur.
(Convict No.C/9167)

...VERSUS...

RESPONDENTS: 1. State of Maharashtra, through
its Secretary, Home Department,
Mumbai – 32.

2. Superintendent of Jail, Central
Prison, Nagpur, District Nagpur.

Ms S.B. Khobragade, Advocate for petitioner
Shri H.R. Dhumale, Addl. PP for respondents

**CORAM : R.K. DESHPANDE AND
AVINASH G. GHAROTE, JJ.**
DATE : 04/11/2020

ORAL JUDGMENT (PER : R.K. DESHPANDE, J.)

Hearing was conducted through Video Conferencing
and the learned Counsel agreed that the audio and visual quality
was proper.

2. Heard Ms S.B. Khobragade, learned Counsel for the
petitioner and Shri H.R. Dhumale, learned Additional Public
Prosecutor for the respondents.

3. Rule, made returnable forthwith. Shri H.R. Dhumale, learned Additional Public Prosecutor waives service of notice for the respondents. Heard finally with the consent of the learned Counsels for the parties.

4. The petition seeks benefit of three months remission as per the Government Resolution dated 03/06/2017. The disentitlement for such remission can only be on the grounds stated in Items - i to vi of the Government Resolution. The petitioner is a convict for the offence under Section 376 (2) (k) (1) of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for a period of ten years with fine of Rs.2,000/- and in default to suffer three months additional sentence. The petitioner has undergone sentence of eight years. In response to the notice issued by this Court on 24/07/2020, reply is filed by the respondents. The only stand is that the proposal regarding case of the petitioner was submitted to the learned District Judge-7 and the Additional Sessions Judge, Nagpur on 24/08/2020 for grant of remission, however, he has opined that the offence committed by the petitioner is of a serious nature and is committed against mentally challenged prosecutrix.

5. We do not find as to how the petitioner is disentitled to remission on this ground. It is not the case of the State that the petitioner falls in any of Items - i to vi of the Government Resolution dated 03/06/2017. We, therefore, do not find any justification for refusal to grant remission.

6. In the result, this writ petition is allowed. It is held that the petitioner is entitled to the benefit of Government Resolution dated 03/06/2017. The respondents are, therefore, directed to act accordingly.

7. Rule is made absolute in the aforesaid terms.

8. The order be communicated to the Counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

(AVINASH G. GHAROTE, J.)

(R.K. DESHPANDE, J.)