

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

CRIMINAL WRIT PETITION NO.247/2020

PETITIONER : Kishor Prabhakar Pade
C-128, detained in Central Prison, Nagpur.

...VERSUS...

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

2. Superintendent, Central Prison, Nagpur.

Mrs. Sneha S. Dhote, Counsel (appointed) for petitioner
Mrs. N.R. Tripathi, Addl. PP for respondents

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.
DATE : 23/10/2020.**

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

1. Heard. Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Counsel for the parties.

2. The petitioner, who has been convicted under Section 304 Part-II of the Indian Penal Code and sentenced to suffer ten years of imprisonment, is before this Court, as his request for grant of benefit of the Government Resolution dated 03/06/2017,

whereby special remissions ranging from seven days to three months have been granted by the State, to celebrate 125th Birth Anniversary of Dr. Babasaheb Ambedkar are granted, has been rejected by the respondents.

3. According to the learned Additional Public Prosecutor, the petitioner is not entitled for such benefit, which comes to a period of three months, as per the category, to which the petitioner belongs, in terms of the Government Resolution dated 03/06/2017, for the reason that the petitioner committed crime with premeditation. She supports the impugned order also for the reason that the opinion of the concerned Sessions Court at Wardha went against the petitioner.

4. On going through the Government Resolution dated 03/06/2017, we find that there is no exception made therein for the prisoners, who had committed crimes with premeditation. Various categories of prisoners depending upon the sentences imposed upon them are created under this Government Resolution and it is seen that one of the categories is of those prisoners, who have been sentenced to suffer imprisonment of five years or more or till life. In this category of prisoners, the remission allowed is of three months. The petitioner, without any dispute, falls in this category. Now, the

only question is as to whether or not the commission of crime by the petitioner with premeditation would be a bar for his availing of the benefit of the Government Resolution dated 03/06/2017. As stated by us earlier, this could not be a bar, as there is no mention anywhere in the Government Resolution that the prisoners, who had committed crimes with premeditation, would not be eligible under this Government Resolution.

5. In the result, we find that the impugned order is erroneous and deserves to be quashed and set aside.

6. Criminal Writ Petition is allowed. The impugned order is quashed and set aside. The respondents are directed to grant benefit of remission of sentence to the petitioner, in terms of the Government Resolution dated 03/06/2017, as per the category to which the petitioner belongs.

Fees of Rs.2,500/- (Rupees Two Thousand Five Hundred Only) be paid to the learned Counsel appointed for the petitioner.

Rule is made absolute in the aforesaid terms.

JUDGE

JUDGE

Wadkar

**Shailendra
Wadkar**

Digitally signed by
Shailendra Wadkar
Date: 2020.10.23
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