

09/04/2021
Item No. 13(t)
Court No.1.
AB/S DE

Through Video Conference

M.A.T. No.252 of 2021

With

C.A.N. 1 of 2021

Sri Gopal Sarkar

Vs

The State of West Bengal & Others

Mr. Sudipta Moitra, Sr. Adv,
Mr. M. Bhattacharya ...for the Appellant.

Mr. Subhabrata Dutta,
Mr. Benazir Ahmed,
Mr. Debasish Sarkar ...for the State.

We have heard learned Senior Counsel for the appellant and learned Counsel appearing for the State.

The long and short of this litigation is that the appellant is undergoing sentence, which, by now, is more than 29 years following his conviction and sentence handed down on different counts. The penalty imposed on him includes life imprisonment. He applied for “premature release”. That was considered by the Government on the basis of certain police inputs. Ultimately, that was rejected. The petitioner challenged it before the learned Single Judge which was turned down. His fundamental plea was that his co-convicts in the same case have already been released. The learned Single Judge rejected the

application turning down the contentions raised therein.

Be that as it may, having looked into the substance of this litigation and the nature of the complaint, all that is to be done, is that requisite action in terms of Section 432 Cr.P.C. is to be put in motion if the appellant makes an application for remission of sentence in terms of that provision.

The procedure for considering an application for remission of sentence under Section 432 Cr.P.C. is spread out in that Section through various subsections and clauses in such a way that Section 432 constitutes a Code by itself.

In the light of the aforesaid, the different authorities including the Government, the Convicting Court and the Confirming Court have to push through any such request in the most expeditious manner having regard to the larger framework of Article 21 of the Constitution.

We are of the view that an application under Section 432 Cr.P.C. cannot be kept pending for long. If a person is entitled to relief by way of remission of sentence in terms of Section 432, that needs to be considered within the shortest period and earliest point of time.

For the aforesaid reasons, we direct that notwithstanding the order impugned in this appeal

and the order impugned in the writ petition, the appellant will be at liberty to make an appropriate application for remission of sentence before the competent authority in the Government of West Bengal and that authority shall duly process that application following due procedure in terms of Section 432 and have a final decision taken through the competent authority. In all fairness to the petitioner, all authorities concerned would necessarily give utmost priority to any such application and have it finally disposed of within an outer limit of 45 days from the date of receipt of such application and a copy of the judgement by the competent authority in the Government of West Bengal. The order issued by the competent authority shall be communicated to the petitioner and the Superintendent of the Correctional Home, where the petitioner is housed, within a week from the date of the order.

With the aforesaid directions, the appeal stands disposed of along with the connected application.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

[Thottathil B. Radhakrishnan, C.J.]

[Arijit Banerjee, J.]