

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

CRIMINAL WRIT PETITION NO.32/2021

Ramu Rangrut Madkam
Prisoner No. C-7222,
Age about 40 years,
Central Prison, Nagpur.

..... PETITIONER

// VERSUS //

1. The Deputy Inspector General of
prisons (East Zone) Nagpur.
2. The Superintendent of Prison,
Central Prison, Nagpur.

.... RESPONDENTS

Shri. Tarun Parmar, Appointed Advocate for petitioner
Miss. H. N. Jaipurkar, APP for the respondents.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 15/02/2021

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

- 1] Heard learned counsel for the petitioner and learned APP
who appears by waiving notice on behalf of the respondents.
- 2] Heard. **Rule.** Rule made returnable forthwith.
- 3] Heard finally by consent of the learned counsel appearing
for the parties.

4] The petitioner is claiming a benefit as regards remission in his sentence imposed upon him in Sessions Case No.22 of 2004 decided on 27.02.2007. The petitioner has been convicted by the learned Additional Session Judge, Chandrapur for an offence punishable under Section 396 and also an offence punishable under Section 397 of IPC. For an offence under Section 396 of IPC, the petitioner has been sentenced to suffer imprisonment for life.

5] The claim of the petitioner regarding remission in his sentence has been laid upon Government Resolution dated 03.06.2017. By this Government Resolution, a one time benefit of remission in sentence has been granted to various categories of prisoners, who were undergoing sentences of imprisonment as of 14.06.2016. The categories of the prisoners who are eligible for various periods of remission in sentences have been tabulated in this government resolution and it is stated that these periods of remissions will actually be applied to the prisoners cases as per their categories, for deduction of sentences, upon their actually undergoing a term of 14 years of imprisonment. This government resolution also contains guidelines regarding prisoners who would not be eligible for the benefit of remission in the sentences given to them. The government resolution also states that the decision regarding remission to be given in sentences, be taken after obtaining appropriate opinion from the concerned Court i.e. the Court convicting

the prisoner.

6] So, the requirement of the government resolution, insofar as opinion of the concerned Sessions Court is concerned, is that the concerned Sessions Court applies its mind to the government resolution and gives its opinion as to whether or not a prisoner is eligible for getting the benefit of the said government resolution. If the concerned Sessions Court is of the opinion that a particular prisoner is not eligible for availing of such benefit, the Sessions Court must record the reason about its such negative opinion within the frame work of Government Resolution dated 03.06.2017 or in other words in terms of the criteria mentioned therein regarding eligibility and non-eligibility. In such cases it would not be open for the concerned Sessions Court to record a negative opinion for a reason which is extraneous to the Government Resolution dated 03.06.2017. In case the concerned Sessions Court is of the opinion that a particular prisoner is eligible for getting such benefit, in that case also, the Sessions Court is required to give its reasons and that too within the frame work of this government resolution only. In such a case, the opinion must also contain the maximum period up to which remission in sentence could be granted to the prisoner in accordance with Government Resolution dated 03.06.2017.

7] In the present case, the impugned opinion woefully lacks in above referred requirements. It also shows non application of mind on

the part of the learned Ad-hoc District Judge-2 and Additional Session Judge, Chandrapur. The learned Judge has not at all applied his mind to the Government Resolution dated 03.06.2017 and has recorded his opinion, we are constrained to say, in a stereo-typical manner, by stating that this petitioner is not eligible for the benefit of the said government resolution because he has been convicted in a crime of serious nature. This reason, we must say, is extraneous to the Government Resolution dated 03.06.2017 and, therefore, such an opinion of the learned Additional Sessions Judge cannot be sustained in the eye of law.

8] We would like to strike a word of caution here for all Additional Session Judges, who have been and who would be called upon to submit their opinions as regards giving of remission in sentences to various prisoners undergoing sentences of imprisonment across the State. We direct all the Session Judges / Additional Session Judges to be cautious in recording their opinions in such matters. We would expect them to take care while giving their respective opinions. We would also expect them to apply their mind to the requirements of the government resolution or the rule or the law under which their opinion is sought and ensure that their opinion is not based upon any reason extraneous to the government resolution or the rule or law under which the opinion has been sought. We would also like to caution them to not keep such matters pending for a long period of time, as we have noticed in several

matters that opinions are not recorded and sent to the concerned prison Authority well in time or are sent after a long delay.

9] In the result, the petition is allowed. The opinion dated 06.09.2017 is hereby quashed and set aside and matter is remanded back to the learned Additional Session Judge with a direction to send his opinion in the matter to the respondent no.2, in accordance with law, within three weeks from the date of the order.

10] Remuneration of Rs.2,500/- (Rs. Two Thousand Five Hundred only) be paid to the learned appointed counsel.

Rule is made absolute.

(AVINASH G. GHAROTE, J) (SUNIL B. SHUKRE J.)