

THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.174/2021

Umesh s/o Jagnu Sarjare,
Aged 33 years, C-483, detained in
Open Prison, Morshi, District Amravati.**PETITIONER**

...V E R S U S...

1. The State of Maharashtra through
Chief Secretary of Home Department,
Mantralaya, Mumbai-32.
2. Superintendent of Open Prison,
Morshi, Dist. Amravati.

...RESPONDENTS

Ms Radha Mishra Advocate for petitioner.
Mr. S. M. Ghodeswar, A.P.P. for respondents.

CORAM:-V. M. DESHPANDE AND AMIT B. BORKAR, JJ
DATED :- 21.06.2021

ORAL JUDGMENT (Per : V. M. Deshpande, J.)

1. Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. By filing this writ petition, the petitioner is challenging
the order passed by respondent no.1 dated 15.01.2021 whereby
case of the petitioner was categorized, in view of the guidelines
dated 11.05.1992 as category no.3(c) and as per guideline dated

15.03.2010, category no. 4 (e) and ruled that the petitioner is required to undergo 26 years of imprisonment.

3. Heard Ms Mishra, learned counsel for petitioner and Mr. Ghodeswar, learned A.P.P. for respondent-State. Also perused the reply filed by the respondents.

4. According to the submission made by learned counsel for petitioner, petitioner ought to have been categorized under category 3 (a) as per the guidelines of 1992 and 4 (a) of guidelines dated 15.03.2010 and submitted that petitioner has to be released after completion of 20 years. She submits that as on today, petitioner has already completed 23 years of imprisonment inclusive of all the remissions.

5. In paragraph 11 of the judgment in Sessions Case No.342/2006, dated 29.03.2008, which is affirmed by this Court in criminal appeal, learned Additional Sessions Judge, in paragraph 11 observed thus:

“11. As to Point no.1:- Homicide means killing of man by another man. In this case, the prosecution has filed spot panchanama. Inquest

panchanama, injury certificate, advance death certificate as well as postmortem examination report and it is concluded from it that there were total 17 external injuries and corresponding internal injuries on the dead body. Moreover, the death of the deceased was occurred due to traumatic and haemorrhagic shock as a result of cut throat injury associated with blunt injury head and the postmortem examination report which is at Exh.52 clearly shows external as well as internal injuries on the dead body which were also caused by sharp edged weapon. Therefore, I have come to the conclusion that the prosecution has proved that the death of the deceased was homicidal.”

Reading of the judgment delivered by learned Additional Sessions Judge further reveals that in paragraph 33 of the said judgment, the learned Additional Sessions Judge has specifically observed as under:

“....So no doubt it is crystal clear from the oral as well as documentary evidence that the prosecution has proved that the accused had intentionally caused grievous and severe hurt on the neck of Bablu and then who succumbed to it...”

6. This judgment of the learned Additional Sessions Judge is affirmed in appeal in entirety.

Thus, it is clear that finding recorded by the learned Additional Sessions Judge that there was premeditation on the part of the petitioner and he resorted to exceptional violence while committing murder, is affirmed.

7. In that view of the matter, as per the guidelines of 1992, the case of the petitioner will fall in clause (c) of category 3 of the guidelines of 1992 and clause (e) of category 4 of guidelines of 2010.

8. In view of above, we see that the respondents have not committed any error in placing the petitioner as placed in the impugned order. No case is made out. The writ petition is, therefore, dismissed.

Rule is discharged.

JUDGE

JUDGE

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