

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

CRIMINAL WRIT PETITION NO.181/2020

Amarsingh Narendrasingh Bais,
Prisoner No.C-27, Open Prison,
Gadchiroli.

..Petitioner.

..Vs..

1. The Deputy Inspector General of
Prisons (East Zone), Nagpur.

2. The Superintendent of Prison,
Open Prison, Gadchiroli.

..Respondents.

Shri Tarun Parmar, Advocate (appointed) for the petitioner.
Shri A.S. Fulzele, Additional Public Prosecutor for the respondents.

CORAM :- **SUNIL B. SHUKRE AND**
AVINASH G. GHAROTE , JJ.
DATED :- **9.2.2021**

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent.

2. We find that the petitioner is otherwise eligible for remission in his sentence in terms of the Government Resolution dated 3rd June, 2017. However, this benefit is not given to the petitioner because of adverse opinion given by the concerned Sessions Court at Chandrapur. This opinion has been challenged in this petition.

3. The opinion dated 18.12.2017 given by Ad-hoc District Judge-2 and Additional Sessions Judge, Chandrapur assigns irrelevant reasons

for recording of adverse remarks against the petitioner. It says that the offence committed by the petitioner being serious in nature, the petitioner would not be entitled for any remission as sought for by him. Government Resolution dated 3rd June, 2017 nowhere states that seriousness of the offence has to be determined by the concerned Sessions Court and depending upon offence being serious or non-serious, opinion be given. It appears that learned Sessions Judge has recorded his opinion without applying his mind to the requirements of Government Resolution dated 3rd June, 2017 and the opinion recorded by him is stereotyped one. Such opinion cannot assume a character of legal opinion.

4. The petition is allowed. Opinion of learned Additional Sessions Judge dated 18.12.2017 is hereby quashed and set aside. The respondents are directed to afford the benefit of Government Resolution dated 3rd June, 2017 to the petitioner in accordance with law and the terms and conditions stated therein. Rule is made absolute in the above terms. Fees of ₹ 1,500/- (₹ One Thousand Five Hundred Only) be paid to the learned appointed counsel.

JUDGE

JUDGE