

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

Criminal Writ Petition No. 652 /2021

Rangaro s/o Poona Jadhav,
C-5035, 60 years, detained in Central Prison Amravati,
District Amravati. ... Petitioner.

VERSUS

1. State of Maharashtra
through Chief Secretary of Home Department,
Mantralaya, Mumbai-32.
2. Superintendent of Central Prison, Amravati. ...Respondents

Ms Radha Mishra, Adv (appointed) for petitioner.
Mrs. N.P. Tripathi, APP for respondents.

CORAM: M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.
DATE : 04-12-2021.

ORAL JUDGMENT : (Per: Pushpa V. Ganediwala, J.)

Rule. Rule is made returnable forthwith. Heard finally with the consent of learned Counsel appearing for both the sides.

2. The petitioner Rangaro Jadhav, is a convict undergoing sentence of life imprisonment for the offence of murder vide judgment and order dated 18-11-1995 in Sessions Trial No.59/1993. In this petition, the petitioner has challenged the order dated 09-03-2021 passed by the respondent no.1 i.e. the State of Maharashtra, through

Chief Secretary, Home Department, Mantralaya, Mumbai, whereby the learned authority has rejected the prayer of the petitioner for his premature release. Learned Counsel Ms Radha Mishra appearing for the petitioner submits that the respondent no. 1 has wrongly applied the category 4(e) in the Notification/Guidelines dated 15-03-2010. According to learned Counsel Ms Radha Mishra, clause 4(a) would be applicable to the case of the petitioner.

3. On the contrary, Mrs. Nandita Tripathi, learned APP appearing for the State supported the impugned order and submitted that murder was committed by the petitioner with exceptional violence, therefore category 4(e) would be applicable and the petitioner has to undergo 26 years of the prescribed imprisonment.

4. We have considered the rival submissions.

5. At the outset, it is well settled, that the guidelines which are more beneficial to the convict has to be considered for determination of the issue of his pre-mature release. Concededly, as per paragraph 12 of the affidavit in reply filed by the State, the guidelines issued through Notification dated 15-03-2010 are more beneficial for the petitioner. We have perused the above referred judgment wherein the petitioner has been convicted. It appears that in the crime he was the main accused, committed murder with an axe by criminally trespassing the house of the deceased during night hours.

Having regard to the nature of accusations proved against the appellant in the judgment, in our considered view, the case of the petitioner does not fall in the category of exceptional violence for commission of murder and the case of the petitioner falls in Category 4(b) i.e. murder committed with premeditation, or a person having criminal history and the sentence of imprisonment prescribed for this category is 22 years. It is stated that till date the petitioner has undergone 23 years of imprisonment. As he has already undergone 23 years of imprisonment and as per the category 4(b) the prescribed imprisonment is 22 years, the petitioner has made out a case for his premature release.

6. For the reasons aforesaid, the impugned order passed by the respondent no.1 is liable to be quashed and set aside. We, accordingly, allow the petition and quash and set aside the order dated 09-03-2021 passed by respondent no.1.

7. Rule is made absolute in above terms.

8. Fees of learned Counsel Ms Radha Mishra appointed for the petitioner shall be quantified at Rs. 2000/-.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)

Certificate

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