

S.S.Kilaje

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2240 OF 2021

Sandip Sahadev Kamble

.. Petitioner

Versus

State of Maharashtra and Anr.

.. Respondents

-
- Mr. D.G.Khamkar for the Petitioner
 - Ms. S.D.Shinde, APP for the Respondent - State
-

CORAM : S.S.SHINDE &
MILIND N. JADHAV, JJ.

DATE : JUNE 10, 2022.

ORDER (PER : MILIND N. JADHAV, J.):

1. By the present Petition, the Petitioner has prayed for the following reliefs:-

“a. that this Honourable Court be pleased to quash and set aside the order Exh. Dated 11.11.2020 passed by the Home department, Mantralaya, Mumbai.

b. By an appropriate Writ, Order or direction of this Honourable Court declare that the case of petitioner is covered by category 2(b) of guidelines of State dated 15th March 2010.”

2. The impugned order 11.11.2020 has been passed by the Respondent No.1 State, *interalia*, concluding that the sentence to be undergone by the Petitioner alongwith remission would be 26 years and only thereafter the Petitioner would be entitled for release.

3. Learned counsel appearing for the Petitioner asserts that the Petitioner is undergoing life imprisonment for commission of offence under Section 302 in Yerwada jail; that he was arrested on 02.09.2004

in Crime No. 274 of 2004 and convicted on 25.06.2008 and sentenced to suffer rigorous imprisonment for life; that the appeal against the judgment of conviction came to be dismissed by this Court. He submits that the Petitioner has completed more than 14 years of actual imprisonment and more than 21 years of total imprisonment including various remissions. He submits that the guidelines dated 11.05.1992 read with the guidelines dated 15.03.2010 in respect of premature release of prisoner serving life sentence under Section 433-A of the Code of Criminal Procedure, 1973 (“**Cr.P.C.**”) are applied to the Petitioner's case, then the Petitioner needs to be categorised on the basis of the facts and circumstances of the offence committed by the Petitioner under category 2(c) of the said guidelines and is required to undergo total imprisonment of 22 years with various remissions. Hence he submits that the impugned order be quashed and set aside.

4. Ms. S.D.Shinde, learned APP while vehemently opposing the submissions of the Petitioner has supported the impugned order dated 11.11.2020 and contended that the submissions made by the Petitioner are fallacious on the face of record. She has drawn our attention to the affidavit-in-reply dated 09.07.2021 filed by Narayan Shrikrishna Karad, Deputy Secretary, Home Department (Prison), Mantralaya, Mumbai on behalf of the Respondent State to oppose the challenge to the impugned order. She submits that the underlying

principle behind application of the guidelines issued by the State for premature release of a convicted prisoner is based upon the guidelines and directions laid down by the Supreme Court in Criminal Writ Appeal No. 566 of 2010 in the case of *State of Haryana Vs. Jagdish* reported in 2010 AIR SC 1690. She submits that the impugned order is a detailed speaking order passed by the Respondent State after duly considering the findings given by the learned Sessions Court in its judgment dated 25.06.2008 convicting the Petitioner; she has referred to the impugned order to state that the findings given in paragraph No.9, 16 and 30 of the judgment by the trial court have been partially reproduced in the impugned order and they reflect the gross manner in which the offence was committed whereby there were multiple injuries caused by a weapon leading to the death of the victim (woman) and the chain of circumstances was complete. She submits that, in view thereof and the reasons given in the impugned order, there lies no fault in the passing of the said order and it deserves to be upheld.

5. We have perused the impugned order carefully and we agree with the reasons give in the said order. The offence committed by the Petitioner for which he is convicted is relating to a crime against woman wherein the crime is committed with exceptional violence and brutality leading to the death of the victim. We have seen that as per

guidelines dated 11.04.2008, the Petitioner was to be released prematurely on completion of 28 years of imprisonment including remissions; however, as per the revised guidelines dated 15.03.2010, the Petitioner now stands categorized under 2(c) and is required to undergo 26 years imprisonment including various remissions. This categorization of the Petitioner under 2(c) is in consonance with the brutality of the crime committed by the Petitioner in committing the murder of the victim (woman) by giving multiple injuries with knife on her person / body. In view thereof, we are of the considered opinion that the Petitioner having committed the offence with exceptional violence and brutality has been rightly categorised under 2(c) of the guidelines dated 15.03.2010. We find no fault with the order dated 11.11.2020 passed by the Home Department, Mantralaya, Mumbai on behalf of the Respondent No.1 State and the said order does not require any interference.

6. In view of the above discussions and findings, the Writ Petition stands dismissed with no order as to costs.

[MILIND N. JADHAV, J.]

[S.S.SHINDE, J.]

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2022.06.11
16:35:30 +0530