

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2423 OF 2021**

Vitthal Waman Bhole

....Petitioner

Versus

The State of Maharashtra

....Respondent

Mr. Mohansinh Umeshsinh Rajput, Advocate for the Petitioner (appointed through Legal Aid Panel)

Mr. J. P. Yagnik, APP for the State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 18th APRIL, 2022.

P.C. :

1. In the present petition, the petitioner - convict No. 2794 presently lodged in Nashik Road Central Prison has raised two grievances. Mr. Rajput, learned counsel appointed for the petitioner submitted that the first grievance is in respect of non- grant of remission on account of commemoration of 125th Birth Anniversary of Dr. Bhimrao Ramji Ambedkar and second grievance is in respect of release of the petitioner as he has completed his imprisonment of 14 years in the prison.

2. Mr. Yagnik, learned APP, on instructions, opposed the petition and placed on record, the compilation received by the office of the public prosecutor. The same is marked "X" for identification. Insofar as the first

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grievance is concerned, it is not in dispute that for grant of such benefit, the pre-requisite is appraisal report/letter of the concerned Court and in the matter of the present petitioner, appraisal opinion was sought for and by communication dated 5th February 2020 to Superintendent, Central Jail, Nashik Road, Nashik, it was informed by the District Judge -4 and Additional Sessions Judge, Jalgaon, that the petitioner has committed an heinous offence of committing murder of kidnapped minor child of 4 to 5 year old for the purpose of extracting money from his parents and, as such, he is not entitled for remission of sentence. In view of the negative appraisal, the petitioner is not entitled to avail benefit of the circular dated 3rd June 2017. Insofar as the second grievance is concerned, it is submitted before this Court by learned APP that though the petitioner has suffered imprisonment of 14 years, as per the Rules, the petitioner would be entitled for release after completing 26 years and, till date, the petitioner has undergone imprisonment for 24 years 2 months and 16 days.

3. In view of the above facts, in our opinion, the petition is devoid of merits and, as such, required to be dismissed. However, the petitioner is at liberty to challenge the decision of the prison authorities for releasing him after 26 years as per the categorization, if so advised. Thus, keeping that liberty open, the petition is dismissed.

4. In view of the dismissal of the petition, interim applications, if any, will not survive for consideration and the same are also disposed of.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)