

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

CRIMINAL WRIT PETITION NO.118 OF 2022

PETITIONER :- Raju @ Rajendra Natthuji Fule, Aged about 47 years, Convict No.C-9975, detained in Central Prison Nagpur.

...VERSUS...

RESPONDENTS :-

1. State of Maharashtra, through its Secretary, Home Department, Mantralaya, Mumbai-32.
2. The Superintendent of Central Prison, Nagpur.

Mr.A.S.Siddiqui, appointed counsel for the petitioner.
Ms. N.R.Tripathi, APP for respondent Nos.1 and 2.

**CORAM : SUNIL B.SHUKRE &
G.A.SANAP JJ.**
DATE : 09.06.2022.

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

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The respondents have refused to grant benefit of the

Government Resolution dated 03.06.20167, which prescribes the period of remission to be given in sentences awarded to the convicts as a special case, to celebrate the 125th birth anniversary of Dr. Babasaheb Ambedkar only on the ground that the learned Additional Sessions Judge, Nagpur found that the offence committed by the petitioner and for which he has been convicted is heinous.

4. We have gone through the opinion of the learned Sessions Judge, Nagpur and we find that although the learned Sessions Judge holds that the petitioner is otherwise entitled for the remission, the petitioner should not be given benefit of any remission because he has been to be found to be guilty of heinous crime, the opinion is clearly against the para meters prescribed in the Government Resolution dated 03.06.2017. It does not say anywhere that in case of conviction awarded for heinous crime, special remission as per the Government Resolution be not granted. It also does not list the categories of the offences which are considered to be heinous. It only lists certain offences at clauses (i) to (vi) of the Government Resolution in respect of

which the prisoners are not entitled to receive special remission. The offence for which he has been found to be guilty does not fall in any of these clauses. Therefore, we find that the petitioner is entitled to receive benefit of Government Resolution dated 03.06.2017.

5. In the result, the Writ Petition is allowed. The impugned order dated 15.11.2021 is hereby quashed and set aside. It is directed that the petitioner be given remission in his sentence awarded to him in terms of the Government Resolution dated 03.06.2017.

6. Rule is made absolute in the above terms. No costs.

7. Remuneration of Rs.3000/- be paid to the learned appointed counsel.

(G.A.SANAP, J)

(SUNIL B. SHUKRE, J)