

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

CRIMINAL WRIT PETITION NO. 683 OF 2021

Mangesh @ Nilesh Ganesh Palaspagar Vs. State of Maharashtra and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders. applicant.

Court's or Judge's orders.

Shri A.K. Madane, Advocate for petitioner.
Shri M.K. Pathan, APP for respondent Nos.1 to 3.

CORAM : V.M. DESHPANDE AND
AMIT B. BORKAR, JJ.

DATE : 28th APRIL, 2022.

By this petition under Articles 226 and 227 of the Constitution of India, the petitioner is challenging the order dated 08/03/2021 passed by the learned Additional Sessions Judge, Akot. The petitioner is a convict for the offences punishable under Sections 376 and 506 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The petitioner is undergoing imprisonment in Amravati Central Jail and had completed six years of sentence on the date of filing of application for remission. The petitioner filed an application based on the Government Resolution dated 03/06/2017 seeking remission. The application came to be rejected on the ground that the petitioner has been convicted for heinous offence. The petitioner has therefore filed the present petition challenging the order dated 08/03/2021.

2. This Court on 17/03/2022 issued notice to respondents in pursuance of which the respondent no.2 has filed reply that the petitioner having been convicted for the offences under Sections 3 and 4 of the POCSO Act, is not entitled for remission.

3. We are carefully considered the The Government Resolution dated 03/06/2017 which is at Annexure 'R-I' to the reply filed by the respondent no.2. Under the said Government Resolution, Clause-iii which creates disqualification for grant of benefit contemplates the prisoners who are convicted for offences under the Central Act shall not be entitled for benefit of the said Government Resolution. It is undisputed that the petitioner has been convicted for offence under the POCSO Act. Therefore, in our opinion, the impugned order rejecting remission of the petitioner is in accordance with law. There is no merit in the petition. The writ petition is disposed of.

4. Shri E.S. Sahastrabuddhe, learned Advocate appointed by the High Court Legal Services Sub-Committee, Nagpur to represent the petitioner shall be entitled to receive Rs.3,500/- towards his fees for drafting and pleading the present matter. The High Court Legal Services Sub-Committee shall pay the amount of Rs.3,500/- to Shri E.S. Sahastrabuddhe.

JUDGE

JUDGE

R.S. Sahare

Signed By: RANJANA SAMEER
SAHARE

Signing Date: 29.04.2022 12:12