

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

Criminal Writ Petition No.752 of 2022

Namdev Natthuji Ganeshkar,
Aged 75 years, Convict- 10224,
Central Prison, Nagpur.

... Petitioner

Versus

1. State of Maharashtra,
through D.I.G. (Prisons) (East),
Nagpur.

2. Jail Superintendent,
Nagpur Central Jail,
Nagpur.

... Respondents

Shri Mir Nagman Ali, Advocate for Petitioner.
Smt. K.S. Joshi, Additional Public Prosecutor for Respondents.

CORAM : SUNIL B. SHUKRE & M.W. CHANDWANI, JJ.
DATE : 13th DECEMBER, 2022

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

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

2. The petitioner has been convicted for an offence punishable under Section 330 read with Section 34 of the Indian Penal Code, which is an offence for which three months' remission as per the Government Resolution dated 3-6-2017 is not denied. If this is so, the learned Additional Sessions Judge could not have given any adverse opinion without considering the sentencing policy of the State,

of which the benefit of remission is a part. If there is a policy of remission to be granted upon fulfillment of certain conditions, it would be the duty of the concerned Sessions/Additional Sessions Judge to give an opinion based upon the policy of remission. But, the adverse opinion given by the learned Additional Sessions Judge, if we see, does not refer to the remission policy at all. On such an opinion, therefore, the benefit of the Government Resolution dated 3-6-2017 could not have been denied to the petitioner, who is otherwise eligible to have the same. We have taken the same view in Criminal Writ Petition No.816 of 2018 decided on 6-3-2019.

3. In view of above, we allow the petition and direct the respondents to grant the benefit of the Government Resolution dated 3-6-2017 to the petitioner in terms of the conditions stated in the said Government Resolution.

4. Rule is made absolute in the above terms.

(M.W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar