

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1583 OF 2022

Ravikiran Hanumant Shelke
(convict No. C/288) Age 45, Occu. Nil,
R/o at present Visapur Open Prison,
District Ahmednagar

... **PETITIONER**

VERSUS

- 1) The State of Maharashtra,
through the Secretary,
Home Department,
Mantralaya, Mumbai - 400 032

(Copy to be served on P.P., High Court
of Judicature of Bombay,
Bench at Aurangabad)

- 2) The Superintendent,
Visapur Open District Prison,
Village Visapur, Dist. Ahmednagar

... **RESPONDENTS**

.....
Ms Sharada P. Chate, Advocate for petitioner
Mr. M.M. Nerlikar, A.P.P. for respondents
.....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 15th JUNE, 2023

ORDER :

Heard. The challenge in this petition is to the order dated 4/2/2022, placing the petitioner in Category 2(c) of the guidelines for grant of remission dated 15/3/2010. Clause 2(c) of the guidelines dated 15/3/2010, which correspond with Category 1(e) of the guidelines dated 11/5/11992, comparison between these

two guidelines, the later one is favourable to the petitioner and, therefore, the same was applied.

2. Category 2(C) of the guidelines dated 15/3/2010 reads thus :

Category No.	Sub-Category	Categorisation of Crime	Period of imprisonment to be undergone including remissions subject to a minimum of 14 years of Actual Imprisonment including Set-off period
2		Offences relating to crime against Women and Minors	
	(c)	Where the crime is committed with exceptional violence and/or with brutality or death of victim due to burns.	26 years

3. The petitioner committed murder of his wife. The learned A.P.P. relies on the judgment of this Court in Criminal Appeal No.215/1999, whereby the conviction of the appellant for the offence punishable under Section 302 of the Indian Penal Code has been confirmed. The learned A.P.P. took us through para 14 of the judgment in the appeal to submit the petitioner to have committed a murder of his wife with exceptional violence and/ or with brutality. The learned A.P.P. would further submit that, there is an eye witness account, suggesting the petitioner to have kicked in

the back of the deceased, held her hair and dragged her to the house. The same indicates how violent the petitioner was. Relying on the extract from Modi's Medical Jurisprudence, he would submit that, a simple kick would not be sufficient to cause rupture of a spleen. According to him, the petitioner might have given forceful kicks, as a result of which his wife died. According to learned A.P.P., the respondent/ State has, therefore, rightly placed the petitioner in Category 2(c) of the guidelines. He, therefore, urged for dismissal of the writ petition.

4. We have perused the judgment in appeal. Admittedly, it was a case based on circumstantial evidence. What the witness Mangal has testified was in the nature of a prelude to the incident. It is not known as to whether a single kick would have proved fatal or the petitioner was required to give more than one kick to commit murder of his wife. Admittedly, the deceased did not suffer any external injury. Although the impact was fatal, it is just difficult to observe that the petitioner has committed murder of his wife with exceptional violence or brutality. Our observations are mainly based on the basis that the case is based on circumstantial evidence. In our view, therefore, the petitioner ought to have been placed in Category 2(b) above.

5. For the aforesaid reasons, we direct the petitioner to be

placed in Category 2(b) instead of Category 2(c) and he be extended the necessary benefits in terms of this order.

6. With these observations, the petition stands disposed of. The State Government shall take appropriate decision in the light of this order within a period of four weeks from today.

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-