

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5671 OF 2021

Shivaji @ Shahaji Bhikaji Chavan

.Petitioner

Vs.

The State of Maharashtra

.Respondent

Ms. Manisha Jagtap, advocate appointed for the Petitioner.
Ms. S. D. Shinde, APP for the Respondent-State.

CORAM : SUNIL B. SHUKRE AND
ABHAY. S. WAGHWASE, JJ.
DATE : 8 MARCH, 2023

ORAL JUDGMENT :- (Per- SUNIL B. SHUKRE, J)

. Heard.

2. Rule. Rule made returnable forthwith. Heard finally
by consent of the parties.

3. The judgment and order dated 20th July, 2005,
delivered by 2nd Adhoc Additional Sessions Judge, Ahmednagar,
convicting the Petitioner for various offences including the
offence punishable under Section 376 (2) (g) of the Indian Penal
Code, 1860, directs the Government that the Petitioner shall
never be given benefit of the relevant provisions of law relating to
remittance in sentence. This direction continues to operate even

today and therefore, no fault could be found in the impugned order denying the benefit of remission in sentence to the Appellant.

4. Of course, the learned counsel for the Petitioner submits that on the date of conviction of the Petitioner, the policy then existing enabled the Petitioner to have the benefit of remittance in sentence and if that policy is applied, the Petitioner would become eligible for his pre-mature release. The learned counsel for the Petitioner has relied upon the law laid down by the Apex Court in the case of *Radheshyam Bhagwandas Shah @ Lala Vakil vs. State of Gujarat & Anr. (2022 LiveLaw (SC) 484)*. There can be no two opinions about the law so declared by the Apex Court. But here, the applicability of policy of remission in sentence itself has been barred by the judgment and order of conviction of the Appellant, as stated above. Therefore, the case law relied upon by the learned counsel for the Petitioner, would not stand in good stead for the Petitioner.

5. Thus, we find that there is no substance in the Petition. Rule is discharged.

(ABHAY. S. WAGHWASE J.)

(SUNIL B. SHUKRE, J.)