

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.6163 OF 2021

Bake @ Ramesh Bansi Yadav (in Jail)

Through Nashik Road Central Prison,

Nashik.

.. Petitioner

Vs.

The State of Maharashtra

.. Respondent

- Mr. S.A. Quazi, for the Petitioner.
- Mr. K.V. Saste, APP for State.

**CORAM : SUNIL B. SHUKRE &
M.M. SATHAYE, JJ.**

DATE : 29th MARCH, 2023.

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

1. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, the Petition is taken up for final disposal at the stage of admission itself.

4. It appears that benefit of remission as provided under the GR dated 03.06.2017 has not been granted to the petitioner only because there is

an adverse opinion given by the concerned Sessions Court. We have gone through the opinion dated 24.12.2020 given by the learned Judge of City Civil & Sessions Court, Borivali Div., Dindoshi. According to the opinion of the learned Judge, the petitioner is not entitled to the benefit of remission because he has committed very heinous and brutal crime of murder of a girl. There is no denial of the fact that the crime committed against the petitioner was brutal and heinous in nature, but what is more important in a case like this is to know as to whether or not there is any category in the GR dated 03.06.2017, which prohibits grant of such benefit to the prisoners who have committed brutal and heinous crimes. The category of the prohibited prisoners is to be found and mentioned in second page of the GR dated 03.06.2017 and these categories are from Category Nos.(i) to (vi). None of these categories refer to the convicts or the prisoners suffering imprisonment on account of commission of brutal and heinous crimes. This fact, a material one, has been ignored by the learned Judge of the Trial Court and therefore, in our view, the opinion of the learned Judge is perverse. Such an opinion is not worthy of consideration in order to decide the question of benefit of the GR dated 03.06.2017 to the prisoners and the petitioner or otherwise. In our further view, there being no category of prohibited prisoners suffering imprisonment for commission of brutal

and heinous crimes and there is no prohibited category in which the petitioner falls, the petitioner is entitled to get the benefit of GR dated 03.06.2017. The petition, therefore, deserves to be allowed.

5. The petition is allowed and it is directed that the petitioner be granted benefit of remission and sentence in terms of the GR dated 03.06.2017.

6. Rule is made absolute in the aforesaid terms.

7. The Petition is disposed of.

[M.M. SATHAYE, J]

[SUNIL B. SHUKRE, J.]