

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3487 OF 2023

Javed Shamsheer Ali Hashmi	]	
Age 36 years, Occ. Servant,	]	
Residing at Shanti Nagar,	]	
Dandekar Wadi, Bhiwandi, Thane – 421302.	]	... Petitioner

V/s.

The State of Maharashtra	]	
Through the Ministry of Home Affairs.	]	... Respondent

Mr. Veerdhawal Deshmukh for Petitioner.
Mr. Ajay Patil, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 1st December 2023.

P.C. :-

1) Petitioner, the brother of convict namely Mr. Nasir Hussain Shamsheer Ali Hashmi, has preferred this present Petition seeking further remission in favour of his brother.

2) Initially the Petitioner had approached this Court in person. We had therefore requested Advocate Mr. Veerdhawal Deshmukh to appear pro bone, on his behalf. He accordingly drafted the Petition and filed it on the basis of instructions given by the Petitioner. He has taken all the necessary contentions and relevant legal pleadings in the Petition.

3) On 18th October 2023 we had directed the Deputy Inspector General of Prison, Western Zone, Maharashtra State to file response to the present Petition. Smt. Swati Sathe, Deputy Inspector General of Police, Western Zone, Pune has accordingly filed Affidavit dated 16th November 2023. Necessary and relevant documents are annexed to the said reply. It is stated that, the brother of Petitioner was convicted by the Special Court under Section 377 & 354 of the Indian Penal Code and under Sections 6 & 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), and was directed to suffer maximum rigorous imprisonment for 20 years and to pay a total fine of Rs.75,000/-, in default sentence was also prescribed by the Trial Court.

3.1) In an appeal preferred by the convict bearing Criminal Appeal No. 332 of 2018, the learned Single Judge of this Court maintained the conviction, however altered the sentence from 20 years of rigorous imprisonment to 15 years of rigorous imprisonment.

3.2) Perusal of record indicates that, the offence alleged against the convict is of a grave and serious in nature. This Court has already shown leniency to the convict and has reduced his sentence from 20 years to 15 years.

4) After taking overall view of the matter further leniency cannot be shown to the convict. The convict is at liberty to impugn the Judgment and Order passed by this Court in Criminal Appeal No. 332 of 2018, if he is

not satisfied with the same.

5) In view of above, we are not inclined to grant remission to the Petitioner, even on humanitarian ground.

6) Petition is accordingly dismissed.

7) Before parting with the Judgment, we would like to place on record a word of appreciation for the efforts put in by Mr. Veerdhawal Deshmukh, learned Advocate appointed by this Court for espousing the cause of Petitioner as he was thoroughly prepared in the matter and rendered proper assistance to the Court.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

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