

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3440 OF 2022**

Sunil @ Pintya Bapu Khandale

... Petitioner

V/s.

State Of Maharashtra

... Respondent

Ms. Trupti M. Appointed Advocate for Petitioner.

Mrs. S. D. Shinde APP, for Respondent-State.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 2nd MARCH, 2023.

PC. :

1. By the present Petition under Article 226 of the Constitution of India, the Petitioner who has been convicted under Section 302 of the Indian Penal Code (*for short "IPC"*) by the learned Additional Sessions Judge, Pune in Sessions Case No. 621 of 2005, has impugned Order dated 10th June, 2021 passed by the Home Department, Government of Maharashtra placing him in Category 4(d) of Guidelines dated 15th March, 2010 issued by the said department.

2. Heard Ms. Khamkar, learned Advocate appointed to represent Petitioner and Mrs. Shinde, learned APP for State. Perused record and Affidavit filed by Mr. Shivshankar B. Patil, I/c. Superintendent, Yerwada Central Prison, Yerwada, Pune-6, dated 26th January, 2023.

3. Perusal of Judgment and Order dated 20th March, 2010 discloses that, Petitioner and co-accused had committed murder of one Mr. Ashok Chavan on 4th August, 2005. The trial Court after a full-fledged trial has convicted Petitioner under Section 302 of the IPC. The Appeal preferred by the Petitioner has been turned down by this Court.

Ms. Khamkar, learned Advocate submitted that, Government ought to have placed Petitioner in category 4(b) of the said Guidelines dated 15th March, 2010 instead of placing him in Category 4(d).

4. Category 4(b) of the said guidelines specifies crime committed with pre-meditation by a person having criminal history and the period to undergo sentence prescribed therein is 22 years including remission. Category 4(d) specifies murder committed by more than one person or a group of persons and sentence prescribed thereto is 24 years including remission.

Admittedly in the present case, the Petitioner alongwith co-accused committed murder of Mr. Ashok Chavan on the fateful day and therefore category 4(d) of Guidelines dated 15th March, 2010 will be applicable.

5. Undoubtedly, in view of the principles enunciated by the Hon'ble Supreme Court in the case of State of Haryana And Ors. Vs. Jagdish reported in (2010) 4 SCC 216, Guidelines dated 10th March, 2010 are more beneficial to the Petitioner than guidelines of the year 1992.

6. Perusal of impugned Order indicates that, the Government has extended all the requisite benefits to the Petitioner in pursuance of Guidelines of 15th March, 2010. After perusing entire record we are of the considered view that, Government has not committed any error by placing Petitioner in the category 4(d) of Guideline dated 15th March, 2010.

7. Petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)