

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 4956 OF 2021**

Punya Chandu Chavhan

... Petitioner

V/s.

State Of Maharashtra

... Respondent

Mr. Bhavik P. Manek Appointed Advocate a/w Mr. Subhradeep Banerjee 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 has impugned Order dated 11th June, 2021 passed by the Additional Secretary, Home Department, Government of Maharashtra, Mantralaya, Mumbai thereby placing the Petitioner in Category 4(b) of Guidelines dated 15th March, 2010 issued by the said department as contemplated under Section 432(1) of the Code of Criminal Procedure.

2. Heard Mr. Manek, learned Advocate appointed to represent Petitioner and Mrs. Shinde, learned APP for Respondent-State. Perused entire record produced before us.

3. Petitioner is convicted under Section 302 of the Indian Penal Code (*for Short "IPC "*) for committing murder of his father on 9th March, 1999 at the construction site, where the Petitioner was working as a

watchman. The Trial Court by its Judgment and Order dated 18th December, 1999 was pleased to convict the Petitioner under Section 302 of the IPC and sentenced him to suffer imprisonment for life. This Court by its Judgment and Order dated 7th February, 2005 passed in Criminal Appeal No. 307 of 2000, has confirmed the conviction and sentence of the Petitioner. The Special Leave Petition (Criminal) Diary No(s). 27445 of 2018 preferred by the Petitioner against Judgment and Order of this Court dated 7th February, 2005 has been dismissed by the Hon'ble Supreme Court by its Order dated 31st August, 2018.

4. After the completion of sentence of actual imprisonment of 14 years, the proposal of Petitioner for pre-mature release as contemplated under Section 432 of the Cr.P.C., was forwarded to the State Government by the Jail Authority. As noted earlier, the State Government by its impugned Order dated 11th June, 2021 has placed the Petitioner in Category 4(b) of Guidelines dated 15th March, 2010 issued by the said department.

5. Perusal of Judgment and Order passed by the learned trial Court indicates that, deceased i.e. father of Petitioner had obtained bank loan and for repayment of the said loan he was pestering the Petitioner. The Petitioner was unable to fulfill demand of his father to repay the said loan. On the date of alleged incident, both Petitioner and the deceased had consumed liquor. A quarrel ensued between them over repayment of the said bank loan and at that time Petitioner assaulted his father by banging his head on the R.C.C. column of the concerned building and strangulated

him with a string of coconut laying thereof. These are admitted facts on record.

6. In view of the above, it clearly appears to us that, Petitioner did not commit the present crime with pre-meditation. There is no criminal history at the discredit of the Petitioner and therefore placing the Petitioner in the Category of 4(b) of Guidelines dated 15th March, 2010 is incorrect. According to us, Petitioner has committed the said crime i.e. murder without pre-meditation in an individual capacity and no previous criminal history at his discredit. The Petitioner therefore is entitled to be placed in Category of 4(a) of Guideline dated 15th March, 2010 which are beneficial to him as per the decision of the Hon'ble Supreme Court in the case of *State of Hariyana And Ors. Vs Jagdish reported in (2010) 4 SCC 216*.

7. In view of the above, impugned Order dated 11th June, 2021 is set aside and the Petitioner is placed in Category 4(a) of Guidelines dated 15th March, 2010 issued by the Home Department, Government of Maharashtra.

All the concerned Authorities are directed to take note of the same and extend benefit of it to the Petitioner.

8. Petition is allowed in the aforesaid terms.

9. Before parting with the Order, we would like to place on record a word of appreciation for the efforts put in by Mr. Bhavik P. Manek learned Advocate appointed by the High Court Legal Services Committee, Mumbai

for espousing the cause of Petitioner, as he was thoroughly prepared in the matter and rendered proper assistance to this Court.

10. Registrar (Judicial-I) is directed to communicate present Order to the Petitioner who as per the record undergoing sentence at Yerawada Central Prison, Pune.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)