



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4807 OF 2022

Shrihari Rajlingam Guntuka

...Petitioner.

V/s.

The State of Maharashtra

...Respondent.

Ms. Mahalakshmi Ganapathy, (appointed) Advocate for the Petitioner.

Ms. M.H. Mhatre, APP for the Respondent-State.

CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.

DATE : 9th October, 2023.

ORDER : (Per Sharmila U. Deshmukh, J.)

1. The Petition filed through jail by the Petitioner seeks grant of special remission, which was declared by the Government of India, Ministry of Home Affairs, as part of celebration of “Azadi Ka Amrit Mahotsav”. As the Petition was by way of a communication from the Petitioner, who is a jail inmate, Ms. Mahalakshmi Ganapathy, learned Advocate was appointed to espouse the cause of the Petitioner.

2. Ms. Ganapathy, learned appointed Advocate submits that, to commemorate the 75th Anniversary of India’s Independence, it was proposed to give special remission to certain categories of prisoners and release them in three phases. She has pointed out the guidelines framed for granting the special remission dated 10th June, 2022 and submits that, as per the sub-clause (viii) of clause 3, the persons who committed

an offence at a young age i.e. between 18 to 21 years and with no other criminal involvement/case against them and who have completed 50% of their sentence period, may be considered as eligible for special remission. She would submit that, in the present case, the Petitioner at the time of commission of offence was aged about 17 years 3 months and 1 day and that he has completed 16 years 9 months in jail without remission. She would fairly point out Clause 5 of the guidelines, which provides that the special remission is not to be granted to a person convicted with sentence of life imprisonment. She would submit that, as the Petitioner has been convicted for life, the guidelines are not applicable to the Petitioner.

3. We have perused the guidelines framed for granting the special remission to the Petitioner and Clause 5 of the guidelines providing for categorization of the persons, ineligible for grant of special remission. Sub-clause (ii) of the clause 5 of the guidelines provide that, the persons convicted with sentence of life imprisonment, are not entitled to special remission.

4. Considering the in-applicability of the guidelines framed for grant of special remission to the case of the Petitioner as he is undergoing life sentence, we are unable to grant the relief of special remission. The Petitioner being ineligible as per the guidelines is not

entitled to the special remission.

Petition is accordingly dismissed.

5. Before parting with the Order, we would like to record our appreciation for the efforts undertaken by the learned appointed Advocate Ms.Mahalakshmi Ganapathy. She has been fair in pointing out the relevant guidelines to this Court and has ably assisted this Court.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)