



Judgment

910 wp 648.23

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION NO. 648/2023

Rajesh s/o Rajam Jadi,
Age about 42 yrs., presently detained
in Open Prison Gadchiroli,
Dist. Gadchiroli – 442 603,
Convict No.C116.

.... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through its Secretary, Department
Home, Mantralaya, Mumbai – 32.
2. Superintendent, Open Prison,
Gadchiroli – 442 603.
3. Superintend, Nashik Road,
Central Prison Office, Nashik.

... **RESPONDENTS**

Mr. Anuj Gandhi, Advocate (appointed) for petitioner.
Mrs. N. R. Tripathi, APP for respondent Nos. 1 to 3.

CORAM : VINAY JOSHI AND
M. W. CHANDWANI, JJ.

DATE : 30.11.2023.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard finally by consent of learned counsel appearing for parties.

2. The petitioner has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is undergoing imprisonment for life. The petitioner has applied for remission of three months on account of 125th Birth Anniversary of Dr. Babasaheb Ambedkar as per Government Resolution ('GR') dated 03.06.2017. The respondent-authority sought opinion of the Sessions Judge on the point of according benefit as per the said GR. In response, the learned Sessions Judge vide communication dated 02.11.2017 has expressed that petitioner is not entitled for premature release. The learned Sessions Judge has denied the benefit as that the petitioner was convicted for the offence punishable under Section 302 of the Indian Penal Code, and he has undergone sentence of nine years only.

3. On examining of GR dated 03.06.2017, it reveals that a life convict is entitled for three months remission. However, there is no rider of serving minimum sentence for making him eligible.

3

Clause Nos. (i) to (vi) of the said GR carves out exception in which the petitioner does not fall. The learned APP has concurred with our view that the petitioner does not fall in above exceptional category. In the result, there is no reason to deny the benefit of GR dated 03.06.2017.

4. In view of above, petition is allowed. We hereby quash and set aside the impugned action of refusal to accord benefit to the petitioner as per GR dated 03.06.2017. We hereby direct the respondents authority to extend the benefit of remission as per GR dated 03.06.2017. The authority shall pass appropriate order within four weeks from today.

5. Petition stands disposed of in above terms.

6. Fees to the appointed counsel for the petitioner be paid as per Rule.

(M. W. CHANDWANI, J.)

(VINAY JOSHI, J.)