



Judgment

04 wp 876.22

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

CRIMINAL WRIT PETITION NO. 876/2022

Francis s/o Santiyago John Santiyago,
Convict No. C/98, Aged 60 yrs.,
Occ. Nil, R/o. Bajaj Chowk, Sitasawamgi,
Tah. Tumsar, Dist. Bhandara.

[presently confined at Gadchiroli
District Open Prison, Gadchiroli]

.... **PETITIONER**

VERSUS

1. State of Maharashtra,
through the Secretary, Home Department,
Mantralaya, Mumbai – 32.
2. The Superintendent, Gadchiroli,
District Open Prison, Gadchiroli.

... **RESPONDENTS**

Ms. Shweta Whankhede/Chavhan, Advocate for petitioner.
Mrs. N.R. Tripathi, APP assisted by Mr. M.J.Khan, APP for respondent
Nos. 1 & 2.

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

DATE : 01.11.2023.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. The petitioner was initially convicted for the offence punishable under Sections 302 and 309 of the Indian Penal Code in Sessions Trial No. 21/2003 vide order dated 12.05.2006. Later on, the petitioner was again convicted for the offence punishable under Sections 302 and 324 of the Indian Penal Code in Sessions Trial No. 54/2005 vide order dated 15.05.2007.

3. The petitioner is undergoing the sentence since then. The petitioner has already undergone 18 years of actual imprisonment including remission of 26 years. The petitioner has urged for grant of remission. The authorities have declined to grant remission forever by placing the petitioner in residuary category No.8 as per guidelines dated 15.03.2010. As per guidelines, the State Government shall decide individual case on merits, if he is placed in such a category. According to the State, the petitioner's case was considered and the State Government took a decision that he is not entitled for remission at all. We have noticed that category No. 6(b) and 6(c) also play relevance as regards to the petitioner.

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4. In the light of the decision of this Court in Criminal Writ Petition No. 950/2022 [Bharat s/o Fakira Dhivar Vs. The State of Maharashtra & anr.] with connected matter decided on 22.11.2022, we direct respondent No.2 to call upon the opinion of the Sessions Judge and thereafter respondent No.1 shall reconsider the petitioner's case and take appropriate decision within four weeks from the receipt of the report.

5. Petition stands disposed of in above terms.

(M. W. CHANDWANI, J.)

(VINAY JOSHI, J.)