



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1127 OF 2024

Kalyan Bansidharrao Renge,
Through Nashik Road Central
Prison, Nashik,
Age-Major, Occu:Convict,
R/o-Nashik Road Central Prison,
Nashik

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through, Principal Secretary,
Home Department, Mantralaya,
Mumbai,
- 2) Superintendent,
Nashik Road Central Prison,
Nashik.

...RESPONDENTS

...
Mr. Nikhilesh K. Tungar Advocate for Petitioner.
Ms. P.R. Bharaswadkar, A.P.P. for Respondent Nos.1 and 2.
...

**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 9th SEPTEMBER, 2024

ORDER :

1. Present Petition has been filed invoking the constitutional powers of this Court under Article 226 and 227 of the

Constitution of India, for following reliefs:-

“(C) Appropriate Writ or direction or order be passed against the respondent authorities and be directed to extend the benefit of remission scheme floated on account of 125th Birth Anniversary of Dr. Babasaheb Ambedkar vide Government Resolution No. Sankirna 0916/P.K.250/16/Turunga-3 dated 03.06.2017 to the present petitioner.

(D) The impugned adverse report of Ld. District and Sessions Court, Parbhani bearing No.3319/2023 dated 15.02.2023 be quashed and set aside.”

2. The facts which are not in dispute are that the petitioner was convicted in Sessions Case No.121 of 1994 by Judgment and order dated 22nd March 1999 for the offence punishable under Section 376(2)(g) read with Section 34 of the Indian Penal Code. He has been sentenced to undergo the imprisonment for ten years and with fine. Criminal Appeal No.153 of 1999 filed by the petitioner before this Court came to be dismissed. The petitioner had preferred Special Leave Petition (Criminal) Diary No.2695 of 2018 before the Hon’ble Supreme Court, however, it was rejected. The petitioner had made an application for getting benefit of the Government Resolution dated 3rd June 2017 which

was issued by respondent No.1 on the occasion of 125th birth anniversary of Dr. Babasaheb Ambedkar, which was in respect of granting remission to the convicts. However, the learned Principal District Judge, Parbhani, by communication dated 15th February 2023 had given opinion that the petitioner is not entitled to get the benefit of said Resolution. Thereupon the Senior Superintendent of Jail, Nashik Road Central Prison took entry of the same in the remission register. Hence this Petition.

3. Learned Advocate for the petitioner also submits that co-accused from the same case was not given benefit of this Resolution and therefore he approached this Court by filing Writ Petition No.770 of 2024 (Munna @ Ravindrasing Dilipsing Parihar vs. the State of Maharashtra), which has been allowed by this Court at Principal Seat, on 13th August 2024. Therein the reliance was placed on the order of another co-accused passed in Writ Petition No.754 of 2024 (Mahesh Vasantrao Motaphale vs. State of Maharashtra), dated 2nd July 2024.

4. Learned APP opposes the Petition and submits that in view of the opinion given by the learned Principal District Judge, Parbhani, the benefit of the Resolution is not extended. The said opinion takes into consideration the seriousness in the offence.

5. The first and foremost fact to be noted is that it appears that in respect of all the three accused persons involved in the same offence the opinion was given by the learned Sessions Judge on 15th February 2023. We take that the said opinion is similar in all the matters and therefore, the observation in respect of the said opinion in Criminal Writ Petition No.754 of 2024 decided on 2nd July 2024, of which Para No.4 has been produced in Criminal Writ Petition No.770 of 2024 decided on 13th August 2024, would be applicable to this case also.

6. Independently, perusal of the Government Resolution dated 3rd June 2017 would show that it is applicable to almost all offences except where death penalty has been imposed and the six categories which have been specifically carved out. Herein this case the petitioner has been convicted and sentence that has been imposed is of ten years of rigorous imprisonment. When as per the Government Resolution it is applicable to the cases where imprisonment for life has also been imposed, then certainly the learned Sessions Judge erred in opining that it is one of the heinous crimes, dis-entitling the petitioner from the benefit of the present Resolution. The Government Resolution was certainly applicable to the petitioner and as aforesaid when

the co-accused have been given benefit, we are of the opinion that the said benefit of the Government Resolution deserves to be given to the petitioner also.

7. In view of the above observations, Writ Petition stands allowed. Respondents are directed to grant benefit of Government Resolution dated 3rd June 2017 to the petitioner as contemplated under the Resolution.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/SEP24