



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

CRIMINAL WRIT PETITION NO. 1452 OF 2023

Vijay Shivdas Adakmol

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mrs. Bharti B. Gunjal, Advocate for the Petitioner.

Shri V. M. Jarare, A.P.P. for the Respondent Nos. 1 to 3.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

DATE : 22 FEBRUARY 2024.

FINAL ORDER :

. Heard both the sides for a while.

2. The petitioner who has been placed in category 4(e) of the 15.03.2010 guidelines for grant of remission U/Sec. 432 of the Code of Criminal Procedure (for short 'Code') is before us claiming to be categorized under category 3(b) of the guidelines.

3. The report submitted by the convicting Court under sub section 2 of Section 432 of the Code *ex-facie* is not in consonance with the mandate of law laid down in the matters of Sangeet Vs. State of Haryana, (2013) 2 SCC 452 and Ram Chander Vs. State of Chattisgarh, 2022 Live Law (SC) 401.

4. Even the impugned order does not expressly refer to and take into consideration the report received U/Sec. 432(2) of the Code. The impugned order independently refers to couple of paragraphs from the judgment of the convicting court.

5. Though the report submitted U/Sec. 432(2) of the Code would not be mandatorily to be accepted by the respondent No. 1/State in the light of the observations of the Supreme Court in the matter of Ram Chander Vs. State of Chattisgarh (supra), the order is expected to assign some reasons for not accepting such report.

6. In the light of the observations made in the matter of Ram Chander Vs. State of Chattisgarh (supra), this Court, in exercise of the powers under Article 226 of the Constitution of India cannot substitute the order in place of the impugned order.

7. In the circumstances, the writ petition is partly allowed. The impugned order is quashed and set aside.

8. The matter is remitted back to the convicting Court for submitting a fresh report U/Sec. 432(2) of the Code and particularly in the light of the observations in the matters of Sangeet Vs. State of Haryana and Ram Chander Vs. State of Chattisgarh (supra). The report shall be forwarded within a period of four (04) weeks from today. The Registry shall communicate this order to the convicting Court by all modes

immediately.

9. The respondent No. 1 thereafter shall pass fresh order in the light of the observations in the matter of **Ram Chander Vs. State of Chattisgarh** (supra), as expeditiously as possible and in any case within a period of four (04) weeks of receipt of the report U/Sec. 432(2) of the Code.

10. The criminal writ petition is disposed of.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/Feb. 24