

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.199 OF 2024

Papa Chhagan Rathod

.... Petitioner

Versus

The State of Maharashtra

.... Respondent

.....

Mr.Nitin Gaware, Advocate for the Petitioner.

Ms.M.M. Deshmukh, APP for Respondent – State.

Mr.Narayan B. Mane, Under Secretary, Home Department,
Mantralaya, Mumbai, present.

.....

***CORAM : BHARATI DANGRE &
MANJUSA DESHPANDE, JJ.***

DATED : 23rd JULY 2024.

P.C. :

1 In compliance of the order dated 2nd July, 2024, an affidavit filed by the Principal Secretary (Appeals and Security) Home Department, Government of Maharashtra, Mantralaya, Mumbai, affirmed on 22nd July, 2024, is placed before us.

2 The deponent, in paragraph nos.5 and 6 of the said affidavit has categorically stated as under:

“5. I say and submit that, pursuant to the direction of this Hon’ble Court by order dated 20.06.2024 and dated 02.07.2024, the State Government has submitted the proposal for the approval of competent authority.

A proposal to cancel the said order and categorize the present petitioner in the category 8(b) of Annexure II of guidelines for premature release under the '14 year rule of Prisoners serving life sentence' , dated 11.04.2008 and dated 15.03.2010, has been submitted for the approval of the State Government. I say and submit that, the order in this regard will be immediately issued after approval by the State Government.

6. *I say and submit that, while considering the proposals for premature release of the prisoners serving life sentence, the State Government adheres to the policy guidelines, issued by the State Government, for premature release of Prisoners”.*

3 Since the petitioner is now categorized under Category 8(b) of Annexure II of Guidelines for premature release dated 11th April, 2018 and 15th May, 2010, and upon this categorization, he deserve his release on completing 20 years of imprisonment including the period of remission.

According to Ms.Deshmukh, the learned APP for the State, as on 20th June, 2024, he has undergone actual imprisonment of 15 years, 20 months and earned remission thereby computing his total imprisonment to be of 21 years, 2 months and 2 days.

4 Considering the aforesaid period of imprisonment and the classification of the petitioner in Category 8(b), he deserve immediate release.

5 Though, the Principal Secretary has made a specific statement in the affidavit, as regards the categorisation of the prisoner, it is informed that, the file is required to be placed before the higher ups for necessary approval.

We hope and trust that this approval shall be obtained with utmost promptitude, since even a single day of incarceration of the petitioner beyond 20 years, would violate his right to be released on undergoing the sentence imposed upon him by following due procedure of law, and it shall also be violative of his fundamental right under Article 21 of the Constitution of India.

We hope and trust that, all the concerned in the process shall keep this in mind and the final decision to release the petitioner shall come forthwith.

In the wake of the specific decision taken by the State Government, the grievance of the petitioner is redressed and hence the Writ Petition is disposed off.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)