



Judgment

wp236.24

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

CRIMINAL WRIT PETITION NO. 236 OF 2024.

Sandip s/o Kisan Khadse,
Aged 43 years, Occupation -
Nil, Prisoner No.C-778, resident
of Open Jail Morshi,
District Amravati – 444905.

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PETITIONER

VERSUS

1.State of Maharashtra,
through its Secretary,
Home Department, Mantralaya,
Mumbai – 400032.

2.State of Maharashtra,
through its Superintendent,
Open Jail Morshi, Amravati.

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RESPONDENTS.

Mrs. Rekha Godbole, Advocate [Appointed] for the Petitioner.
Ms N. Tripathi, A.P.P. for Respondents.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.

DATE : SEPTEMBER 18, 2024.

Rgd.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

Rule. Rule is made returnable forthwith and by consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. The petitioner has been convicted for the offence punishable under Section 302 of the Indian Penal Code and is presently serving life imprisonment from 31.01.2023 onwards. The petitioner has applied for special remission on account of 125th birth anniversary of Dr. Babasaheb Ambedkar, in terms of Government Resolution dated 03.06.2017.

3. On receipt of petitioner's urge, the jail authorities have obtained appraisal report from the convicting Court. The learned convicting Court gave adverse opinion by contending that having regard to the nature and gravity of the offence and the petitioner

Rgd.

being a life convict, he is not entitled for special remission, which resulted into rejection of special remission to the petitioner.

4. With the assistance of learned Counsel for the parties we have gone through the Government Resolution dated 03.06.2017. It is a policy decision that all types of convicts, except 6 categories carved out in the said government resolution, are entitled for special remission. The tabular chart specifies that even life convicts are entitled for special remission for a period of three months. We see that there is no category carved out to deny special remission on account of nature and gravity of the offence. In the circumstance, it is apparent that the respondent Authority has seriously erred in rejecting the urge of the petitioner for special remission. It is not in dispute that on the date of implementation of the aforesaid government resolution, the petitioner was in jail, meaning thereby the government resolution would apply in his case.

5. In view of above discussion, Criminal Writ Petition is

Rgd.

allowed. The impugned order of rejection of special remission is hereby quashed and set aside. We hereby hold that the petitioner is entitled for special remission of three months in terms of the Government Resolution dated 03.06.2017. The respondent Authorities may act accordingly by imposing necessary conditions as it may deem fit. Necessary orders shall be passed by the authority within a period of two weeks from the receipt of this order.

6. Rule is made absolute in aforesaid terms with no order as to costs.

7. Fees of the appointed Counsel be quantified as per Rules.

JUDGE

JUDGE