



Judgment

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

CRIMINAL WRIT PETITION No. 372/2024.

Mukesh Ramji Yadav,
Convict No.C/7063, Aged 48 years,
Occupation Nil, Confined at
Nagpur Central Jail, Resident of
Dharampeth, Nagpur.

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PETITIONER.

VERSUS

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

2.The Superintendent,
Central Prison, Nagpur.

...

RESPONDENTS.

Ms S.P. Chavhan, Advocate for the Petitioner.
Ms N. Tripathi, A.P.P. for Respondents.

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

DATE : AUGUST 27, 2024.

Rgd.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

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

2. The petitioner has been convicted in Sessions Trial No.186/1996 by the 5th Additional Sessions Judge, Nagpur for the offence punishable under Sections 302, 307, 147, 148, 159 read with Section 34 of the Indian Penal Code and has been sentenced to undergo imprisonment for life along with other sentences. The petitioner has claimed to have undergone 22 years of imprisonment. He has applied for grant of benefit of remission in terms of Government Resolution dated 13.03.2024, by which the Government as a policy has resolved to grant remission to the convict as per the chart annexed therein on account of completion of 75 years of Independence. The chart indicates that convicts who have been sentenced to life imprisonment would get remission of 15 months with a rider that they

Rgd.

should not fall in exceptional category stated in Clause [2] therein.

3. The State has resisted this petition by submitting that the petitioner is not entitled to get the benefit of said government resolution, since the petitioner has not surrendered on due date on his early release, and thus, he falls in exception no. (vi) contained in Clause 2 of the said government resolution. It is stated that earlier the petitioner was released on furlough leave on 17.05.2014 and he was supposed to surrender on 17.07.2014. The petitioner did not surrender on the due date, which caused police to arrest him on 05.01.2018 i.e. after 1268 days. On said count, it is submitted that the petitioner is not eligible.

4. Sub-clause [vi] to Clause 2 of the government resolution states the convicts who are not eligible for furlough leave are excluded from the benefit of the said government resolution. Rule 4 of the Prison Rules, prescribes the non-eligibility for furlough and those categories are carved out under Sub-rule [1] to [11] therein. Clause [10] of Rule 4 reads as below :

Rgd.

“Rule 4[10] Prisoners who have at any time escaped or attempted to escape from lawful custody or have defaulted in any way in surrendering themselves at the appropriate time after release on parole on furlough.”

In substance, if the prisoner has escaped from lawful custody or has defaulted in surrendering, after release on parole or furlough, he is not eligible for grant of furlough leave. Sub-clause [vi] equally states that the prisoner who is not eligible for furlough is not entitled for the benefit thereof. Besides the learned A.P.P. would submit that under Clause [vii] of the Government Resolution also the petitioner is not eligible, as he has un-authorisedely remained out of jail and he has not been reentered into remission register. On said count also, the petitioner is not eligible for grant of benefits of the government resolution.

5. Though the learned Counsel for the petitioner would submit that after petitioner's re-arrest in the year 2018, he has been released on furlough and surrendered on due date, however, the government resolution does not permit to grant benefit to the convict

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who surrendered on due date on subsequent occasion. In view of above, the action of State of refusing to accord benefit of the government resolution cannot be faulted with. Writ Petition is therefore, dismissed. Rule discharged.

JUDGE

JUDGE