



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

CRIMINAL WRIT PETITION NO.635/2023

Sudhakar S/o Chinduji Chanekar,
age Major 53, Prisoner No.C-7066
(Detained in Central Prison, Nagpur
District Nagpur)

... Petitioner

- Versus -

1. State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.

2. Superintendent of Jail Prison,
Nagpur, District Nagpur.

... Respondents

Ms. Kadambini Meshram, Advocate for the Petitioner.
Ms. N.R. Tripathi, A.P.P. for Respondent Nos.1 and 2.

CORAM: SMT. VIBHA KANKANWADI & MRS.VRUSHALI V. JOSHI, JJ.
JUDGMENT RESERVED ON: 14.6.2024.
JUDGMENT PRONOUNCED ON: 20.6.2024.

JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard Ms. Kadambini Meshram, Advocate for the
petitioner and Ms. N.R. Tripathi, A.P.P. for respondent Nos.1
and 2.

2. **Rule.**

3. The petitioner is convicted for the offence punishable under Sections 302, 149 and 452 of the Indian Penal Code by the Ad-hoc Additional Sessions Judge, Wardha in Sessions Case No.30/2004 by judgment dated 9.6.2005. The petitioner has completed near about 23 years of actual imprisonment. The case of the petitioner was considered for premature release. The authorities have placed the petitioner in category No.4(e) i.e. 26 years of imprisonment for remission as per the Guidelines dated 15.3.2010. The petitioner has stated that crime is committed out of land dispute, therefore, it falls under the category No.3(b) which provides 22 years of imprisonment for remission. The dispute is about placing the petitioner in appropriate category looking to the nature of the offence committed. Category No.4(e) would be attracted if murder is committed with exceptional violence brutality or kidnapping etc.

4. The judgment of the trial Court is placed on record. The dispute relates to land which led to an assault upon three persons who are killed by mob of 13 persons. Though it is over a land dispute it was for forming unlawful assembly. This being the nature of dispute we are of the considered opinion that the case of the petitioner would not fall under the Category No.3(b) but it would fall under Category No.4(d) [murder committed by more than one person/group of persons] which is 24 years of imprisonment for remission. The murder convict would be eligible for remission of sentence under this clause.

5. In the circumstances, we find that impugned order deserved to be quashed and set aside.

6. The petition is allowed and disposed of in the following terms.

The impugned order is quashed and set aside.

Respondents are directed to grant benefit to the petitioner by remitting his sentence by applying Category No.4(d) of the Government Resolution dated 15.3.2010.

(MRS.VRUSHALI V. JOSHI, J.)

(SMT. VIBHA KANKANWADI,J.)