



Judgment

wp763.24

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

CRIMINAL WRIT PETITION NO. 763 OF 2024.

Kunal @ Golu Anil Jaiswal,
C-690, Aged Major, Occupation -
Nil, (Detained in Open Prison,
Morshi, District Amravati).

...

PETITIONER.

VERSUS

1.State of Maharashtra,
through Secretary, Department
of Home Affairs, Mantralaya,
2nd Floor, Main Building, Mumbai.

2.The Superintendent,
Open Prison, Morshi,
District Amravati.

3.The Superintendent of Central Pison,
Wardha Road, Nagpur.

.. **RESPONDENTS.**

Ms G.R. Dive, Advocate (Appointed) for the Petitioner.
Mr. A. Badar, A.P.P. for Respondents.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.
DATE : SEPTEMBER 26, 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 seeks special remission on the basis of Government Resolution dated 03.06.2017 which was issued on the subject of grant of remission on account of 125th Birth Anniversary of Dr. Babasaheb Ambedkar. The petitioner has completed the minimum requirement of imprisonment of 5 years as required by the aforesaid government resolution. The special remission has been declined by the Authority for the reason of adverse opinion by the convicting Judge.

3. We have gone through the adverse opinion, wherein it is stated that since the petitioner is convicted under Central Act namely Indian Penal Code, and thus, he is not entitled for remission in terms

Rgd.

of exception carved out under Clause [iii] of the said government resolution.

4. The learned Counsel for the petitioner has pointed out a clarification dated 19.11.2018, issued by the Home Department, stating that Clause [iii] would apply to the convicts whose case falls under Section 435[2] of the Code of Criminal Procedure. Thus, apparently the case of petitioner does not falls under either of the category. In view of above, the impugned action of rejection of special remission is not sustainable in the eyes of law. Hence, we proceed to pass the following order.

ORDER

- [i] Criminal Writ Petition is allowed and disposed of.
- [ii] We direct the Authorities to grant special remission to the petitioner in terms of Government Resolution dated 03.06.2017, by imposing appropriate conditions as the authority may deem fit.

Rgd.

[iii] The Authority shall pass consequential order within a period of 4 weeks from today.

[iv] Rule is made absolute in aforesaid terms with no order as to costs.

[v] Fees of the appointed Counsel be determined as per Rules.

JUDGE

JUDGE