



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

CRIMINAL WRIT PETITION NO.142 OF 2024

Anil Laxman Jawade, convict Prisoner **Petitioner**
No.2185, Central Prison, Amravati.

-Versus-

1. The State of Maharashtra through the Under Secretary, Ministry of House Department having its office at Mantralaya, Mumbai-400-032.
2. The Superintendent, Central Prison, Amravati.

Respondents

Mr.R.D.Dhande, Advocate for the petitioner.
Ms.N.R.Tripathi, APP for the respondents.

**CORAM : SMT.VIBHA KANKANWADI AND
MRS.VRUSHALI V. JOSHI, JJ.**

DATE: 28.06.2024.

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

1. Rule. Rule made returnable forthwith. The Writ Petition is heard finally with the consent of the learned counsel for the parties.

2. The petitioner has filed the petition seeking directions to

quash and set aside the order dated 28.04.2023 passed by the Under Secretary, Home Department thereby, rejecting the premature release of the petitioner and holding that the petitioner shall be released from jail after completing 22 years of prison. The petitioner is a life convict and is presently confined in the Central Prison, Amravati bearing Criminal Convict No.2185. The petitioner was convicted by the Additional Sessions Judge, Akola in Sessions Trial No.103 of 1993 vide the judgment dated 08.11.1994 for the offence under Section 302 r/w 34 of the Indian Penal Code and sentenced the petitioner for life imprisonment.

3. The petitioner has challenged the judgment and order dated 08.11.1994 before this Court and this Court has dismissed the Criminal Appeal on 06.06.2001 upholding the judgment dated 08.11.1994 passed by the Additional Sessions Judge, Akola in Sessions Trial No.103 of 1993.

4. The learned counsel for the petitioner has stated that the petitioner was on bail during the period of trial and appeal. Since, 2001, he is in jail. As per the Government Resolution dated

15.03.2010, the categorization has been made and the petitioner comes under the category of clause 3(a) which deals with Murders arising of land dispute, family feuds, family prestige and superstition prescribes that if a crime committed above with premeditation either individual or gang the period of imprisonment to be undergone including remission subject to a minimum of 14 years actual imprisonment including set off period is 20 years.

5. On 28.04.2023, the State Government through the Under Secretary of the Home Department passed an order relying on the judgment of the Sessions Court and passed the order that the murder was premeditated comes within the purview of category (b) of Government Resolution dated 15.03.2010. The petitioner has stated that since, 2001 he is in jail. He has completed more than 24 years of actual imprisonment and therefore is entitled for grant of remission and release from jail with immediate effect.

6. The learned APP has filed the reply and has stated that as per the observations of the learned Trial Court, the offence comes under clause 4(d), and has to undergo imprisonment for 24 years. The respondent has also admitted that the present petitioner

will be entitled to be released after 22 years and total imprisonment including all the remissions.

7. Heard learned counsel appearing for both the parties.

8. The respondent has filed the communication dated 09.11.2020, in which it is clearly stated that the petitioner is entitled for release after 22 years and forwarded to the Additional Director General of Police. Considering the opinion of the Sessions Judge that it comes under clause 4 (d) for 24 years. On the said Government Resolution on 28.04.2023, Deputy Secretary, Home Department has passed the order stating that if he has completed 22 years of punishment then he will be released from the prison and he has forwarded it to Additional Director General of Police for review of it.

9. The petitioner is in jail since 2001. Already categorization has been done and he was categorized for Clause 3(b). Though he has completed the entire period of imprisonment, the order was passed on 28th April 2023 for reviewing, whether it comes under category of 4(d) of 24 years. There was no question of reviewing earlier category. Who and under which circumstance

review was made is not explained by State. As already the petitioner was categorised by considering the entire material for category 3(b) for 22 years, and the petitioner has completed 22 years of his imprisonment. Hence, we pass the following order.

10. In view of above, the writ petition is allowed.

11. Direction is given to release the petitioner, in view of order/communication dated 09.11.2020, if not required in any other case.

12. Rule is made absolute in the above terms. No costs.

(MRS.VRUSHALI V. JOSHI, J.) (SMT.VIBHA KANKANWADI, J.)