



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

CRIMINAL WRIT PETITION NO.220 OF 2024

Umesh Sukhdeo Jaronde (In jail)

-Vs-

The State of Maharashtra through Secretary Home Dept. Mantralaya,

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms. Shweta P. Chavhan, counsel for the petitioner.
Ms.Nandita Tripathy, A.P.P for respondent State.

CORAM: NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.
DATE : 26th NOVEMBER, 2024.

1. Heard.
2. All the accused persons were convicted vide judgment dated 30/09/2008 in Sessions Trial No.278 of 2006 decided by the Ad-hoc District Judge-3 and A.S.J, Nagpur.
3. The genesis of the offence is based on the deceased lodging the complaint against the accused persons out of the quarrel that took place few days before on a public water tap.
4. The case proved against the petitioner viz. on 26/04/2006 issuing threats to the deceased and with common intention murdering him with weapons. In this background, the conviction of the accused is claimed to

have been categorized under Clause 4(e) i.e. murder committed with exceptional violence brutality and the period of imprisonment including set-off is provided 26 years.

5. The learned counsel appearing for the petitioner having regard to the nature of role attributed to each of the accused submits that the categorization is contrary to Government Resolution dated 15/03/2010 issued under Section 432 of the Code of Criminal Procedure, as the prosecution case speaks of murder committed by the group of persons.

6. As against above, Ms.Tripathi, learned APP would oppose the prayer and submits that the categorization is rightly carried out by the Authorities under Clause 4(e) of the Government Resolution dated 15/03/2010 issued under Section 432 of the Code of Criminal Procedure. According to her, all the accused persons armed with the weapons with predetermination have committed the offence thereby murdering the deceased, as such she would claim that the petition is liable to be dismissed.

7. We have appreciated the rival claims.

8. It can be gathered from the judgment of the conviction that each of the accused is attributed the role of

use of weapon like Gupti, Iron pipe, Spade and Wooden and Bamboo sticks (Balli) etc.

9. If we consider the very scheme of Sections 300 and 302 of the Indian Penal Code, the fact about the offence of murder to be violent in itself can be noticed. The only point this Court is required to look into is the degree of brutality and the aggravated violent act committed with violent mind.

10. The offence in question in the present case appears to have been committed as the deceased has lodged a complaint against accused persons of an earlier incident of 12/04/2006 with the Police.

11. In such an eventuality, it cannot be said that the petitioner has committed the offence in question with exceptional violence or brutality. It can be rightly so urged by the learned counsel appearing for the petitioner that the offence of murder committed by the petitioner can be categorized under clause 4(d) of the aforesaid circular viz. the murder committed by more than one person/group of persons.

12. That being so, we direct the categorization of the offence of the petitioner under Clause 4(d) of the Annexure-I of the Government Resolution dated 15/03/2010.

13. In such an eventuality, if the petitioner has completed 24 years of imprisonment, we direct the release of petitioner, if not, the petitioner be released upon completion of imprisonment of 24 years.

14. The Writ Petition stands allowed in above terms.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)