



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 CRIMINAL WRIT PETITION NO. 128 OF 2025

Saieed Suleman Makrani

VERSUS

The State of Maharashtra and another

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Advocate for the Petitioner : Mr. Shaikh Mohammed Aamir Abdul
Qadir, (through Legal Aid)

APP for Respondents: Mr. V.K. Kotecha

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**CORAM : SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATED : 17th FEBRUARY, 2025

PER COURT :-

1. The present petition has been filed to challenge the opinion of the learned Additional Sessions Judge-1, Shahada, district Nandurbar, vide letter dated 15.10.2022, thereby not recommending the remission as per the Government Resolution dated 03.06.2017 on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar.

2. Heard learned advocate for the petitioner as well as perused the communication issued by the Superintendent of open Prison, Paithan, dated 14.2.2025, to the learned A.P.P. and also heard the learned A.P.P. The said letter is taken on record by marking it Exhibit "A".

3. Respondent No. 1 State by the said Resolution had come with a specific scheme for grant of remission on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar. The chart was given depending upon punishment that has been awarded proportionately to give remission. Here in the present case, the petitioner was convicted by the Additional Sessions Judge, Shahada, district Nandurbar on 13.01.2012, for the offences punishable under sections 302, 324, 147, 148 r.w. 149 of I.P.C. The maximum sentence that was imposed was imprisonment for life. The petitioner had preferred criminal appeal before this Court bearing Criminal Appeal No. 37 of 2012, which came to be dismissed. As per the chart that has been given by the Superintendent of Jail, the petitioner has undergone imprisonment of 21 years, 4 months and 19 days, which is inclusive of all concessions and his actual imprisonment then comes to 14 years, 2 months and 2 days. It appears that proposal was sent in respect of the petitioner to the convicting court as to whether the benefit of the said scheme, as per the Government Resolution dated 3.6.2017, can be given to him or not.

4. The convicting court has given a cryptic opinion stating that taking into consideration the offence that has been committed, seriousness of the same, he is not in favour of grant of remission to

the petitioner. It appears that, learned Judge has not considered entire Government Resolution, the purpose behind it and the powers of the State Government under Section 432(1) of the Cr.P.C. It was the special benefit or special scheme that was brought on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar. The said Government Resolution itself carved out six categories to whom the benefit was supposed to be denied. Thereafter, on 19.11.2018, further clarification was given by the Government in respect of category 3. Even the conjoint reading of both these Government Resolutions, would show that only on the basis of seriousness of the offence, the benefit could not have been denied. In fact, those accused have also been held to be entitled who were initially awarded death penalty but by way of appeal, it has been then converted into imprisonment for life. Therefore, only seriousness of the offence was not criteria for rejection. The concerned Judge ought to have seen whether the case of a particular convict falls within those 06 categories, mentioned in the Government Resolution or not. Therefore, certainly, the opinion that has been given in the present matter on 15.10.2022 suffers from correctness and the interpretation of the Government Resolution, and therefore, the said opinion deserves to be set aside.

5. The Superintendent of Jail, in his letter, clearly states that

since convicting court has given negative opinion, the said benefit is denied to the petitioner and therefore, interference is required. When the scheme is introduced by the Government which is beneficial to a class of convicts and which is in respect of remission then the misinterpretation cannot be allowed. Certainly, power under Section 432 of Cr.P.C. gives wide discretion to the Government to accord remission but when the specific scheme has been introduced then even the State Government cannot discriminate on imaginary reasons or class. We, therefore, proceed to pass the following order:-

O R D E R

- I. Writ petition stands allowed.
- II. The opinion dated 15.10.2022, given by the learned Additional Sessions Judge-1, Shahada, district Nandurbar thereby refusing to grant benefit under Government Resolution dated 03.06.2017 to the petitioner, stands quashed and set aside.
- III. We direct the respondents to give benefit of the said Government Resolution dated 03.06.2017 coupled with the

clarification dated 19.11.2018 and 02.12.2024 with immediate effect to the petitioner and note of the same be taken on the respective registers.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)

rlj/