



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

12 CRIMINAL WRIT PETITION NO. 239 OF 2025

Dilip Digamber Chavan (C-5261)

Age : 42 Years,

R/o. Confined in Open District Prison, Paithan,

Dist. Aurangabad.

.... Petitioner

VERSUS

1. The State of Maharashtra
Through Secretary, Home Department,
Mantralaya, Mumbai-32.

2. The State of Maharashtra
Through Superintendent Open Prison,
Open District Prison, Paithan,
Dist. Aurangabad.

.... Respondents

....
Advocate for the Petitioner : Mrs. Nirmala K. Helkute
APP for Respondents-State : Mrs. R.P. Gour

....

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

Dated : 06th March 2025

PER COURT :-

1. The present Writ Petition has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India, to challenge the order dated 08.01.2025, passed

by the Additional Sessions Judge, Khed Rajgurunagar, Tq. Khed, Dist. Pune, holding that the benefit of remission of sentence in view of Government Resolution dated 03rd June 2017 cannot be given to the petitioner as he has not completed fourteen years of imprisonment.

2. Heard learned Advocate for the petitioner and learned APP for the State.

3. The fact which is not in dispute is that the present petitioner was convicted vide Sessions Case No.93 of 2014 (Old Sessions Case No.12 of 2011) for offences punishable under Sections 302, 452 of the Indian Penal Code, 1860 and the maximum sentence which was directed to be given was thirty years of imprisonment for life. The conviction passed by the learned Additional Sessions Judge, Khed Rajgurunagar, Tq. Khed, Dist. Pune and it appears that the appeal preferred by the petitioner is still pending. Now the petitioner is lodged in Open District Prison, Paithan.

4. There was a proposal for extending the benefit of Government Resolution dated 03rd June 2017, issued by respondent No.1, in respect of remission which was the special remission on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar. As

per the said Government Resolution, when opinion of the convicting Court was called, then the concerned court has rejected the same on the ground that the petitioner has not served fourteen years of imprisonment. The said opinion has been given on 08.01.2025.

5. It appears that the learned Additional Sessions Judge, Khed Rajgurunagar, Tq. Khed, Dist. Pune has misinterpreted the Government Resolution dated 03rd June 2017. By the said Government Resolution, the convicts, who were undergoing the sentence, were given special remission as stated above on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar and as per the chart, the maximum period of remission is three months when the conviction that has been awarded is for more than five years or imprisonment for life. Even those convicts whose conviction has been converted from death penalty to imprisonment for life were also held entitled and it was decided to give benefit to those convicts also. But the basic condition was that the actual benefit would be given after a convict undergoes the actual fourteen years of imprisonment.

6. It appears that the concerned Judge was under impression that it is required to be given immediately. In fact, when his opinion was called by letter dated 20.11.2024, a specific statement

was made that the actual benefit will be given only after a convict undergoes the actual imprisonment of fourteen years. The opinion dated 08.01.2025 by the concerned Judge is based on wrong interpretation or misconception. The said opinion will have to be set-aside.

7. Taking into consideration the fact that the petitioner was convicted on 18.12.2015 i.e. prior to the Government Resolution dated 03rd June 2017 and the actual implementation was to be started from 14.04.2016, definitely the petitioner was entitled. The conduct of the petitioner in the prison is also good and satisfactory and it appears that since 14.07.2019, he has been kept in Open District Prison, Paithan. It is definitely on the basis of his behavior in the prison. We, therefore, consider this to be a fit case where we should exercise our constitutional powers under Article 226 of the Constitution of India as unnecessarily the convict would be deprived of the benefit that the Government intended to give it to him. We, therefore, proceed to pass the following order.

ORDER

1. The Writ Petition stands allowed.

2. The impugned order dated 08.01.2025, passed by the learned Additional Sessions Judge, Khed Rajgurunagar, Tq. Khed, Dist Pune, in respect of the petitioner, stands quashed and set-aside.
3. Respondent No.1 is directed to give benefit of Government Resolution Dated 03rd June 2017 to the petitioner as per the condition in the said Resolution i.e. after he undergoes the actual imprisonment of fourteen years.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asd