



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

36 CRIMINAL WRIT PETITION NO.840 OF 2025

Akbar Sayyad Shaikh (C-5147),
Age 44 yrs., Occ. Nil,
R/o District Open Central Jail,
Paithan, Tq. Paithan,
Dist. Chhatrapati Sambhajanagar.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra
Through it's Principal Secretary,
Home Department, Second Floor,
Madam Cama Road,
Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032.
- 2 The Superintendent,
District Open Central Jail,
Paithan, Tq. Paithan,
Dist. Chhatrapati Sambhajanagar.

... Respondents

...

Mrs. Akshara Madake, Advocate (appointed) for petitioner

Mrs. R.P. Gour, APP for respondent Nos.1 and 2

...

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

DATE : 28th JULY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present petition has been filed by the inmate claiming the special remission, which was made available by the Government of Maharashtra on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar.

2 By our order dated 25.06.2025 we had appointed the Advocate to represent the petitioner. Accordingly, she has prepared the petition.

3 Learned APP waives notice for both the respondents.

4 Heard both sides. In order to cut short, it can be said that learned appointed Advocate for petitioner and learned APP for respondents have argued in support of their respective contentions.

5 The Government of Maharashtra by said resolution dated 03.06.2017 took decision to grant special remission / remission as contemplated under Section 432(1) of the Code of Criminal Procedure. The convicts were divided into categories as per the conviction period and proportionate to that days / months were given as special remission. Only six categories of convicts were held to be ineligible. The present petitioner came to be convicted in Sessions Case No.4/2010 by Additional Sessions Judge, Sangamner, Dist. Ahmednagar, for the offence punishable under

Section 302 of the Indian Penal Code by Judgment and order dated 08.04.2011. He has been sentenced to suffer imprisonment for life. The petitioner had approached this Court by way of appeal and his appeal bearing No.373/2011 came to be dismissed. Therefore, taking into consideration this aspect the petitioner was eligible for consideration of three months special remission under the said Government Resolution dated 03.06.2017. He was not within the six categories of convicts, who were made ineligible. We would like to say that those convicts whose sentence of death was commuted under Section 433-A of the Code of Criminal Procedure were also considered for remission when the said commutation was in respect of imprisonment for life. Therefore, the crime being heinous or committed in a brutal manner was not the criterion for rejecting the said remission. In the said Government Resolution itself it was stated that the opinion of the convicting Court should be taken and accordingly, it appears that the opinion of convicting Court i.e. Additional Sessions Judge, Sangamner has been taken. It appears that the concerned Judge had mistaken this special remission to the remission which is otherwise applied for i.e. for premature release and then unnecessarily a lengthy opinion has been given, which is based on the facts. The merits were considered once again, which is in fact, not the requirements of the Government Resolution. Here, the remission, that is, made available would be then applicable after the completion of 14 years of actual imprisonment.

Therefore, the opinion given by convicting Court cannot be allowed to sustain, when otherwise the petitioner was eligible for the remission. We, therefore, set aside the opinion and direct respondent No.2 to grant the said remission as per the Government Resolution dated 03.06.2017 to the present petitioner i.e. to take note of the said remission in the remission register in respect of present petitioner. With these directions, the petition stands **disposed of.**

6 We quantify the fees of the appointed Advocate at Rs.8,000/- (Rupees Eight Thousand only), to be paid by the High Court Legal Services Sub Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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