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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 CRIMINAL WRIT PETITION NO. 1042 OF 2025

NITIN PRAMOD KENDALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Ms.B.B.Gunjal, Advocate for the petitioner.
Mr.A.D.Wange, APP for the respondent/State.

(CORAM : SMT. VIBHA KANKANWADI AND
SUSHIL M. GHODESWAR, JJ.)

DATE : 2 SEPTEMBER 2025

PER COURT :

1. The present petition has been filed challenging the order dated 23.05.2025 passed by respondent No.1, whereby the petitioner has been placed in category 5(b) as per the guidelines dated 15.03.2010 for pre-mature release under the “14 year Rule” of prisoners serving life sentence. The petitioner also prays that he be put under category 4(d) of the said guidelines dated 15.03.2010.

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

3. The learned Advocate appearing for the petitioner submits that the petitioner was accused No.4 in Sessions Case No.1/2008 and came to be convicted by the learned Additional Sessions Judge, Shrirampur, Dist. Ahmednagar on 30.08.2010. In all 16 accused had faced the trial and some including the petitioner were convicted for different offences including Section 302 of the IPC. The maximum sentence is imprisonment for life. The substantive sentences of the petitioner were directed to run concurrently. The point No.1 “Whether the prosecution proves that on account of political grudge, rivalry accused nos. 1 to 14 and 16 being worker of Shiv Sena Party hatched conspiracy on 29.10.2007 at Newasa ?” has been answered as “not proved”. That means the Trial Court, though considered that it was a murder, yet has held that it was not on account of political grudge. Category 5 of the guidelines dated 15.03.2010 is for ‘murders for political reasons’ and category 5(b) is for ‘murders arising out of political rivalry and political interest with premeditation’. It will not be applicable to the petitioner. Further, the present petitioner had approached this Court by filing Criminal Appeal No.363/2010, which came to be decided with companion matter on 17.08.2012. The conviction of the petitioner for the offence punishable under section

302 r/w 149 of the IPC was confirmed with some modifications in respect of the fine amount. Even this Court has not held that the same murder was for political reasons. Under the said circumstances, category 4(d) of the guidelines dated 15.03.2010 ought to have been applied by the respondents i.e. category 4 for “murder for other reasons” and (d) particularly for the murders committed by more than one person or group of persons. The present petitioner has undergone 15 years 6 months and 20 days of actual imprisonment, and therefore the petition deserves to be allowed.

4. The learned APP relies on the affidavit in reply filed by Smt.Aruna Arjunrao, Incharge Deputy Inspector of Prisons, Nashik Region Nashik, wherein it has been stated that when the judicial appraisal was taken, the learned Additional Sessions Judge, Shrirampur, by opinion dated 03.09.2021, opined that the case of the petitioner comes under category 5(b), and therefore the impugned order is correct. Motive behind the commission of the crime was the political rivalry, and therefore there is no need for setting aside the order.

5. The first and the foremost fact that will have to be

mentioned is that the judicial appraisal given by the learned District Judge-1 and learned Additional Sessions Judge, Shrirampur, District Ahmednagar on 03.09.2021 appears to be without going through the decision in the Sessions Case as well as the decision in the appeal before this Court. If he would have gone through the decision of his predecessor in the Sessions Case No.01/2008 on 30.08.2010, wherein the first point itself has been answered in the negative whereby the theory put by the prosecution that there was hiding up of a conspiracy on account of political grudge, has been negated. The prosecution story in the FIR was that deceased Vilas and Dnyaneshwar and the injured witnesses being the workers of Shiv Sena Party had made propaganda of a candidate Ashok Jagtap of their party, who was contesting the election from a Ward of Gram Panchayat. Accused No.7 was contesting the said election from the rival political party. The candidate of the deceased had won and accused No.7 was defeated, and therefore it is stated that the accused persons had grudge in their mind against the informant, deceased persons as well as injured witnesses.

6. In paragraph No.12 of the judgment of the Trial Court, it

has been observed that there is no evidence about conspiracy. It appears that the matter proceeded on the basis of the evidence, which was direct as well as circumstantial. It is further observed that motive plays an important role but when there is direct and unimpeachable evidence connecting the accused with the crime, then the absence of motive is not of much consequence. Therefore, on the basis of direct evidence in the nature of injured witnesses, the accused persons have been held guilty and the present petitioners appear to have been convicted. The said opinion and the judgment of the Trial Court has been upheld by this Court as it is. Further, it appears that there was no appeal filed by the State challenging the acquittal of the petitioner from the offence punishable under section 120-B of the IPC. Under such circumstance, the said murders were not committed for the political reasons. However, since the murder was for other reason, by group of persons, the petitioner ought to have been put under category 4(d). The State Government has also not taken note of the findings and reasons of the Trial Court as well as the Appellate Court and wrongly applied category 5(b) of the said guidelines. Since the fundamental rights of the convict have been jeopardized, it is the matter where inference under Article 226 of the Constitution of India is warranted.

7. For the aforesaid reasons, we allow the writ petition. The order passed by respondent No.1 dated 23.05.2025 is hereby quashed and set aside. We direct respondent no.1 to place the petitioner under category 4(d) of the guidelines dated 15.03.2010. Such order be passed by respondent No.1 within a period of 15 days from today. Thereafter, the necessary directions be given to respondent No.3 in respect of release of the petitioner by calculating the actual imprisonment that has been undergone by him.

(SUSHIL M. GHODESWAR, J.) (SMT. VIBHA KANKANWADI, J.)