



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1627 OF 2025

Ajit Krishna Ghanekar

Petitioner

Versus

The State of Maharashtra and
another

Respondents

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Mr. Rupesh Jaiswal, Advocate for the petitioner.
Mr. M.A. Aher, A.P.P. for the respondents.

...

CORAM : SANDIPKUMAR C. MORE AND
Y.G. KHOBRADE, JJ.

DATED : 19 DECEMBER 2025

Oral Judgment (Per Sandipkumar C. More, J.) :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the petitioner and learned A.P.P.

2. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner (Convict No.4883), who is inmate of Open Jail, Paithan, District Chhatrapati Sambhajinagar, is seeking direction to the respondents to consider his sentence of imprisonment under Section 302, 147 and 148 of the Indian Penal Code (for short, "I.P.C.") in Sessions Case No.234/2008 to run concurrently and further direct them to release him forthwith.

3. Learned counsel for the petitioner submits that the petitioner/convict was arrested on 09.01.2007 for the offence under Sections 302, 147 and 148 of I.P.C. and vide judgment dated 11.11.2010, he is convicted in the aforesaid Sessions Case No. 234/2008 as follows :

Offence	Punishment
Under Sec.147 of I.P.C.	Rigorous Imprisonment for one year.
Under Sec.148 of I.P.C.	Rigorous Imprisonment for two years.
	Both the sentences under Sections 147 and 148 of I.P.C. to run concurrently.
Under Sec. 302 of I.P.C.	Imprisonment for life and to pay fine of Rs. 1000/-, in default, rigorous imprisonment for six months.

4. Learned counsel for the petitioner submits that thereafter the State Government on 14.05.2024 passed order under Section 432 of the Code of Criminal Procedure placing the petitioner in the category of 4(E) of 2010 Guidelines and determined the period of his imprisonment of 26 years inclusive of all remissions and after undergoing the said sentence, he be released from the jail. Learned counsel for the petitioner submits that as per the jail record, the petitioner has already undergone imprisonment alongwith all remissions for the period of 26 years 1 month and 13 days as

on 30.11.2025. He, therefore, pointed out that though the petitioner is entitled for immediate release from the Open District Prison, Paithan, but the respondents are not ready to release him and they are insisting that as per the judgment of aforesaid sessions case, the petitioner yet to undergo the sentence of imprisonment for the offence under Sections 147 and 148 of I.P.C. which is to run concurrently for two years. Respondents are thus insisting that the petitioner has to undergo 22 months imprisonment as per the judgment. According to the learned counsel for the petitioner, the act of respondents is contrary to the direction of the Hon'ble Apex Court in the case of *Muthuramlingam and others vs. State*, reported in *2016 AIR (SC) 3340*.

5. On the contrary, learned A.P.P. strongly opposed the submission made on behalf of the petitioner and pointed out that as per Section 31 (1) of the Code of Criminal Procedure, imprisonment for about 22 months awarded for the offence punishable under Sections 147 and 148 of I.P.C. is yet to be undergone by the petitioner, as the learned Sessions Judge did not specify that the life imprisonment awarded to him was to run concurrently with the imprisonment for the offences under Sections 147 and 148 of I.P.C. Learned A.P.P. heavily relied on the judgment of Hon'ble Apex Court in the

case of ***Sunil Kumar @ Sudhir Kumar and another vs The State of Uttar Pradesh in Criminal Appeal No. 526 of 2021.***

6. Heard rival submissions. Also perused the material placed on record with the help of the learned counsel for the petitioner and the learned A.P.P.

7. Admittedly, the learned Sessions Judge, in the judgment of Sessions Case No.234/2008, has stated about running of sentences of imprisonment awarded for the offences punishable under Sections 147 and 148 of I.P.C. concurrently, but did not specify as to whether the life imprisonment to run concurrently or consecutively with the aforesaid sentence. The learned counsel for the petitioner heavily relied on the observation of the Hon'ble Apex Court in the case of ***Muthuramlingam*** (supra), as below.

*“30. We are not unmindful of the fact that this Court has in several other cases directed sentences of imprisonment for life to run consecutively having regard to the gruesome and brutal nature of the offence committed by the prisoner. For instance, this Court has in **Ravindra Trimbak Chouthmal v. State of Maharashtra, (1996) 4 SCC 148**, while commuting death sentence penalty to one of imprisonment for life directed that the sentence of seven years rigorous imprisonment under Section 207 IPC shall start running after life imprisonment*

*has run its due course. So also in **Ronny v. State of Maharashtra (1998) 3 SCC 625** this Court has while altering the death sentence to that of imprisonment for life directed that while the sentence for all other offences shall run concurrently, the sentence under Section 376 (2)(g) shall run consecutively after running of sentences for other offences. To the extent these decisions may be understood to hold that life sentence can also run consecutively do not lay down the correct law and shall stand overruled”.*

Further, the Full Bench of the Hon’ble Apex Court in the same case has also made the following observation :

“32. We may, while parting, deal with yet another dimension of this case argued before us namely whether the Court can direct life sentence and term sentences to run consecutively. That aspect was argued keeping in view the fact that the appellants have been sentenced to imprisonment for different terms apart from being awarded imprisonment for life. The Trial Court’s direction affirmed by the High Court is that the said term sentences shall run consecutively. It was contended on behalf of the appellants that even this part of the direction is not legally sound, for once the prisoner is sentenced to undergo imprisonment for life, the term sentence awarded to him must run concurrently. We do not, however, think so. The power of the Court to direct the order in which sentences will run is

unquestionable in view of the language employed in Section 31 of the Cr.P.C. The Court can, therefore, legitimately direct that the prisoner shall first undergo the term sentence before the commencement of his life sentence. Such a direction shall be perfectly legitimate and in tune with Section 31. The converse however may not be true for if the Court directs the life sentence to start first it would necessarily imply that the term sentence would run concurrently. That is because once the prisoner spends his life in jail, there is no question of his undergoing any further sentence. Whether or not the direction of the Court below calls for any modification or alteration is a matter with which we are not concerned. The Regular Bench hearing the appeals would be free to deal with that aspect of the matter having regard to what we have said in the foregoing paragraphs”.

8. On the contrary, learned A.P.P. also relied on the judgment of the Hon'ble Apex Court in the case of **Sunil Kumar** (supra) wherein it is observed as follows :

“13. Even when we find the aforementioned shortcomings in the orders passed by the Trial Court as also by the High Court, the question is as to whether the sentences awarded to the appellants could be considered as running concurrently? As noticed, the omission to state whether the sentences awarded to the accused would run concurrently or

would run consecutively essentially operates against the accused because, unless stated so by the Court, multiple sentences run consecutively, as per the plain language of Section 31(1) CrPC read with the expositions in Muthuramalingam and O.M. Cherian (supra). The other omission to state the order of consecutive running cannot ipso facto lead to concurrent running of sentences”.

On going through the aforesaid observation, it is made clear that unless the Court states that the sentences of imprisonment to run concurrently, the multiple sentences must run consecutively as per the plain language of Section 31(1) of Cr.P.C. However, the Hon'ble Apex Court appears to have modified the order of concerned High Court only by exercising power under Article 142 of the Constitution of India, which is not available with us. As against this, the Full Bench of the Hon'ble Apex Court in the case of **Muthuramlingam** (supra), has laid down the law that when there is imposition of sentence of imprisonment of life alongwith the sentence for other offences which are even directed to run consecutively, it is not correct law that the sentence for life imprisonment shall run consecutively after running of sentences of other offences. It is also made clear by the Hon'ble Apex Court in the said judgment that if the Court directs life sentence to start first, it would necessarily

imply that the term sentence would run concurrently as once the prisoner spends his life in jail, there is no question of his undergoing any further sentence.

9. In the instant case, it appears that the petitioner has undergone the sentence of life imprisonment and even the State Government passed an order under Section 432 of Cr.P.C. on 14.05.2024 placing him again in the category of 4E of 2010 Guidelines and restricted his imprisonment upto 26 years, including the remissions. While passing such order, all the sentences imposed by the concerned Sessions Court have been considered for placing him in the category of 4E of 2010 Guidelines. Even the opinion of concerned Sessions Judge was considered before passing this order. Further, as per own record of respondent No.2, which is placed on record by the learned APP, it is clearly evident that the petitioner/convict has already undergone sentence of imprisonment alongwith all remissions for the period of 26 years, 1 month and 13 days. Therefore, when the respondent No.2 himself has opined that the petitioner has undergone the entire sentence as per the order passed by Government dated 14.05.2024 under Section 432 of Cr.P.C., the petitioner is entitled for his release forthwith.

10. Needless to say, as per the observation of the Hon'ble Apex Court in the case of **Muthuramlingam** (supra), the respondents cannot insist the petitioner to undergo sentence of two years awarded to him by the learned Sessions Judge in the aforesaid sessions case for the offences punishable under Sections 147 and 148 of I.P.C. after having undergone the sentence of life imprisonment.

11. In view of the above discussion, the present criminal writ petition is allowed and the respondents, are directed to release the petitioner/convict Ajit Krishna Ghanekar (C-4883) forthwith, if not required in any other case, since he has already undergone the sentence awarded to him in Sessions Case No.234/2008.

12. Rule is made absolute in above terms.

(Y.G. KHOBRADE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE