

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 3296 OF 2025

Shantanu Sitaram Alias Anil Divekar
Age: 47 years,
R/o. Somwar Peth Karad, Tq. Karad,
Dist. Satara At present in Jain as
Convict No. C-94, Open Prison at the
Superintendent of Jain Kolhapur
Central Prison, Kalamba, Dist. Kolhapur

...PETITIONER

VERSUS

1. The State of Maharashtra
through its Principal Secretary,
Home Department, Mantralaya,
Mumbai 400 032
2. The Superintendent of Jail,
Kolhapur Central Prison,
Kalamba, Dist. Kolhapur

...RESPONDENTS

Mr. Jaydeep Rasam, Advocate a/w Ms. Supriya Rasam,
Advocate for the petitioner
Mr. A.A. Naik, APP for respondents

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**CORAM : NITIN B. SURYAWANSHI &
AJIT B. KADETHANKAR, JJ.**

DATE : 2nd FEBRUARY, 2026

ORAL JUDGMENT : [Per Nitin B. Suryawanshi, J.]

1. Rule. Rule is made returnable forthwith. Heard finally with the consent of the learned Advocates for the parties.
2. This Petition, filed under Article 226 of the Constitution of India, takes exception to the categorization of the Petitioner under Category 1(d) of the Guidelines issued by the Government on 11th May, 1992 and category 4 (d) of the guidelines dated 15th March, 2010, thereby asking the Petitioner to undergo 26 years of imprisonment for considering his premature release.
3. The Petitioner, along with the co-accused, was charged for commission of murder of his wife by strangulation, in session case No.135 of 2001 for offence punishable under section 302, 120B read with 34 of the Indian Penal Code. The Trial Court convicted and sentenced the accused persons to suffer Rigorous Imprisonment for life. Criminal Appeal No.518 of 2004, filed by the Petitioner and Criminal Appeal No. 652 of 2004 with companion matters, filed by the co-accused

were partly allowed by the Division Bench of this Court on 21st July, 2011, by setting aside conviction of the accused under section 120B of the Indian Penal Code, however, maintaining the sentence of life imprisonment awarded under sections 302 read with 34 and 201 read with 34 of the Indian Penal Code.

4. By the impugned order dated 1st November, 2023, the Petitioner is categorized under categories 1 (d) and 4 (d) of the guidelines, thereby directing the Petitioner to undergo 26 years of imprisonment before his premature release. The Petitioner is aggrieved by this order.

5. Heard learned advocate for the petitioner and learned APP for the State. Perused the record.

6. Petitioner in support of his case has placed reliance on the judgment and order of this Court (Coram: Smt. Vibha Kankanwadi & Hiten S. Venegavkar, JJ.) passed in the case of co-accused Ganesh @ Deepak Shahji Patil in Criminal Writ Petition No. 917 of 2025, wherein this Court has held that,

“the petitioner co-accused falls under category 2(b) of the guidelines of 2010.”

7. It is necessary to mention here that while categorizing the convict, it is obligatory on the part of the Respondents to obtain Sessions Judge’s opinion. In the present case, the learned Sessions Judge has opined that the Petitioner may be released prematurely after completion of 22 years of imprisonment. There is not even a reference of the said opinion in the impugned order.

8. This Court, while allowing the Petition of the co-accused (Accused No.2), has observed that,

“The murder was by strangulating, as there were two ligature marks. Therefore, taking into consideration the date of the decision in the appeal, the beneficial provisions of Guidelines of 2010 ought to have been applied and accordingly, they were applied simultaneously in the impugned order also, but a wrong category has been mentioned. Category 4 of the

Guidelines of 2010 is for murders for other reason, but there is specific category 2 which deals with offences relating to crime against women and minors. For accused No.1 it cannot be stated that the category would be different and for the present petitioner i.e. the friend of the husband of the deceased, the category would be different and therefore, when there is a specific category i.e. category 2 (b) of the Guidelines of 2010 where the crime as mentioned above committed with premeditation, the said category would be applicable. Under the said circumstance. The impugned order deserves to be set aside”.

9. In the light of the aforesaid observations, the Petitioner is entitled for the same relief, on the ground of parity, coupled with the fact that the Respondents have ignored the opinion / recommendation of the learned Sessions Judge, impliedly categorizing the Petitioner under category 2 (b) of the Guidelines and recommending his release after undergoing 22 years of imprisonment.

10. The impugned order is vitiated also on the ground that though the guidelines of 1992 are no more in operation and the present matter is covered by 2010 guidelines, in the impugned order, the Petitioner is also categorized under category 1D of 1992 guidelines. This reflects total non application of mind on the part of Respondent No.2 and on this ground alone, the impugned order is liable to be quashed and set aside.

11. For the aforesaid reasons, the impugned order cannot be sustained. The Writ Petition is, therefore, allowed. Impugned order dated 1st November, 2023 passed by the Desk Officer, Maharashtra State is hereby quashed and set aside. The Respondents are directed to categorize the Petitioner under category 2 (b) and release him after completion of 22 years of actual imprisonment. Rule is made absolute in the aforesaid terms.

(AJIT B. KADETHANKAR, J.) (NITIN B. SURYAWANSHI, J.)