



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.968 OF 2024

Shri Umashankar @ Bapu Shriram Potbhare
Vs.
State of Maharashtra and Another

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Raju Kadu, Advocate for the Petitioner/s.
Mr. A.B. Badar, APP for respondent Nos.1 and 2

CORAM: ANIL L. PANSARE AND
SIDDHESHWAR S. THOMBRE, JJ.

DATED : 11th SEPTEMBER, 2025

1. On 03rd September, 2025, following order was passed :-

“ *Heard for some time.*
The petitioner is seeking premature release. Respondent no. 1 has rejected the request on the count that he has not undergone requisite period of imprisonment as envisaged under Government Resolution dated 15-3-2010. The petitioner falls in the category 4(e), which provides for release after 26 years of imprisonment (where the offence i.e. murder committed is exceptional, violent or brutal). In the present case, the petitioner is convicted for committing brutal murder of two persons.
We have, however, noticed that while passing order, the information/report of the Sessions Court in terms of Section 432(b) of the Code of Criminal Procedure, 1973 has been not obtained and considered.
Learned Additional Public Prosecutor shall take instructions on this point.

List in the week commencing from 8-9-2025.

All concerned to act on steno/uploaded copy of the order.”

2. Learned APP has tendered across the bar the opinion report dated 11.09.2019 given by the Sessions Court, which has convicted the petitioner. The report indicates that Crime, that was committed by the petitioner, was without premeditation. The report further indicates that the dispute occurred between two families on account of dispute of approach way to well. The report further indicates that there are no criminal antecedents against the petitioner.

3. In these circumstances, it is difficult to understand as to how the respondent No.1 has considered the case of petitioner under category 4(e) of the Government Resolution dated 15.03.2010. The category 4(e) refers to murder committed with exceptional violence/brutality/kidnapping, murder committed by dacoits and robbers in the act of committing dacoities and robberies, murder committed by bootleggers, gamblers, flesh traders, etc. The report of Sessions Court and the facts of the case indicate none of the ingredients mentioned in category 4(e) of the said resolution or satisfied the same.

4. It appears that the respondent No.1 has only considered the fact that the petitioner had committed murder of two persons. That by itself, according to us, will not be a reason to treat him under category 4(e). Most importantly, the order impugned has been passed

without considering the opinion/report of the Sessions Court, which runs contrary to the provisions under section 432(b) of the Code of Criminal Procedure, 1973.

5. Accordingly, the writ petition is partly allowed. Order dated 24.09.2024 passed by the respondent No.1 is quashed and set-aside. The matter is remanded back to the respondent No.1 for consideration afresh in accordance with law and what has been stated in the body of the order, who shall take a decision within one week from the date of receipt of the order.

6. The petition is disposed of in above said terms.

7. All concerned shall act on the authenticated / uploaded copy of the order.

(S. S. THOMBRE, J.)

(A. L. PANSARE, J.)

Privel