IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1193 OF 2026

Ashabai Puna Tayade
(Convict)
Age: 56 years, Occ : Convict,
R/o. Dada Saheb Rupvate Society,
Ambedkar Nagar, Bhusawal,
District Beed. .. **PETITIONER**

VERSUS

1] State of Maharashtra
Through Secretary,
Home Department (Prison),
Mumbai-400005.

2] Superintendent of Jail,
Central Jail, Yerwada, Pune. .. **RESPONDENTS**

...

Mr. Rupesh A. Jaiswal, Advocate for the petitioner.
Mrs.M.N.Ghanekar, APP for the respondent-State.

...

CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV,JJ.

Reserved on : 19.10.2026
Pronounced on : 30.10.2026

JUDGMENT : [Per : Vaishali Patil-Jadhav, J.]

. Rule. Rule made returnable forthwith. Heard finally with the consent of learned advocate for the petitioner and the learned APP.

2. By way of this criminal writ petition, the petitioner, who is the original convicted accused No. 2 in Sessions Case No. 165 of 2003, is seeking quashment of the order dated 03.07.2026 passed by respondent No.1 State, whereby she is placed under Category 2(C) of the Guidelines of 15.03.2010 and Category 1(d) of the Guidelines of 11.05.1992, prescribing 26 years period of imprisonment (including remissions) to be undergone for considering the proposal for premature release and consequently praying to place her under Category 1(B) of the Guidelines of 2010, prescribing 20 years period of imprisonment (including remissions), and then, to direct Respondent No.1 to release the petitioner forthwith.

3. The petitioner was convicted by the learned Additional Sessions Judge, Jalgaon, in Sessions Case No.165 of 2003 on 30.03.2005 for the offences punishable under Sections 498-A and 302 read with Section 34 of the Indian Penal Code,1860 (for short, "IPC") and sentenced to suffer imprisonment for life. The petitioner had preferred an appeal against her conviction before this Court by filing Criminal Appeal No. 252 of 2005, which came to be dismissed on 11.04.2007. Thereafter, the petitioner approached the

Hon'ble Supreme Court by filing Criminal Appeal No. 1062 of 2008, which was also dismissed on 04.01.2013. The petitioner has undergone actual imprisonment of 15 years, 10 months and 03 days and, 22 years, 02 months and 25 days inclusive of all remissions till 30.09.2026.

4. Learned advocate for the petitioner submits that the impugned order is passed erroneously. The petitioner, being a woman, ought to have been placed under category 1(B) of the Guidelines of 2010, which creates a special category for women offenders.

Learned advocate submits that the petitioner has been wrongly classified under Category 2(C) of the 2010 Guidelines and Category 1(d) of the 1992 Guidelines. The said categorization is flawed as these categories are primarily based on the classification of offences, whereas Category 1(B) is a special category created on the basis of the gender of the offender. It is lastly submitted that since a specific and beneficial category exists for women, the petitioner, being a woman, is entitled to be considered under the same.

In support of his submissions, learned advocate has placed reliance on the judgments in the case of ***State of Haryana and Ors. Vs. Jagdish***, reported in ***2010 AIR (SC) 1690***, ***Usha Munna Upadhyay Vs. The State of Maharashtra***, reported in ***2015 ALL MR (Cri) 3209*** and ***Uday S/o Dhaku Sutar Vs. The State of Maharashtra & Anr.***, in ***Criminal Writ Petition No. 4544 of 2021***, dated 08.09.2022.

5. Per contra, learned APP supports the impugned order and submits that the petitioner has been rightly placed under Category 2(C) of the Guidelines of 2010. It is submitted that the case of the petitioner does not fall under the special category created for offences relating to crime by women, but rather falls under the special category for crimes committed with exceptional violence, brutality, or where the death of the victim is caused by burns.

Drawing the attention of this Court to the facts of the case, learned APP submitted that the crime is of a heinous nature, inasmuch as the victim, Vandana, died within three years of her marriage due to harassment meted out to her on account of her inability to conceive a child, and

kerosene was poured on her and she was burnt to death at the instance of her mother-in-law and sisters-in-law.

Learned APP lastly submitted that considering the brutal manner in which the crime was committed, the case rightly falls under Category 2(C), which is a special category for crimes involving exceptional violence and death by burns.

6. We have heard learned counsel appearing for the petitioner and learned APP appearing for the State. With their able assistance, we have perused the petition, annexures thereto, reply filed on behalf of the State, the relevant Guidelines of 2010 and reported judgments relied upon by the parties. We have carefully perused the opinion of the Prison Advisory Board Committee, the opinion expressed by the Ad-hoc District Judge-2 and Assistant Sessions Judge, Jalgaon and the impugned order dated 03.07.2026 passed by the State.

7. The only question before us is whether the State Government was justified in placing the petitioner under Category 2(C) of the Guidelines of 2010 and Category 1(d) of the Guidelines of 1992?

8. For ready reference, we have reproduced category 2(C) of the Guidelines of 2010 and Category 1(d) of the Guidelines of 1992, wherein the petitioner is placed by order dated 03.07.2026, as well as Category 1(B) of the Guidelines of 2010, which the learned counsel for the petitioner has relied upon in support of the claim for premature release which read thus:

Category 1(d) of the Guidelines of 1992 :

Category No.	Sub category	Categorization of crimes	Period of imprisonment to be undergone including remission subject to a minimum of 14 years of actual imprisonment including set off period.
1		MURDERS RELATING TO SEXUAL MATTERS OR ARISING OUT OF RELATIONS WITH WOMEN, DOWRY DEATHS AND OTHER FORM OF BRIDE KILLING ETC.	
	d)	Where the Crime is committed against the aggrieved person with premeditation.	**26 years**

Category 1-B and 2-C of the Guidelines of 2010 :

Category No.	Sub category	Categorization of crimes	Period of imprisonment to be undergone including remission subject to a minimum of 14 years of actual imprisonment including set off period.
1		OFFENCES RELATING TO CRIME BY WOMEN	
	B	Where convict has committed the murder with premeditation or by a gang	**20 years**
2		OFFENCES RELATING TO CRIME AGAINST WOMEN AND MINOR	
	C	Where the crime is committed with Exceptional violence and or with brutality or death victim due to burns.	**26 years**

9. We have independently perused and considered the findings recorded by the 2nd Ad-hoc Additional Sessions Judge, Jalgaon in Sessions Case No.165 of 2003, by which the petitioner along with co-accused was convicted for the offences punishable under Sections 498-A, 302 read with Section 34 of the IPC. The conviction was challenged by the petitioner in the High Court as well as in the Hon'ble Supreme Court and both the Courts dismissed the appeal

preferred by the petitioner thereby confirming the conviction. While dismissing Criminal Appeal No.1062 of 2008, the Hon'ble Supreme Court has made the following observations :-

> *"...17) The above analysis clearly shows that the deceased was in a fit state of mind to make dying declarations and her statements in those dying declarations are consistent and truthful. In addition to the same, the prosecution also examined PWs 1, 2 and 11 as well as the Doctors, I.Os., and other witnesses in support of their claim. We do not find any infirmity in the order of conviction and sentence recorded by the trial Judge and affirmed by the High Court.*
>
> *18) In spite of stringent legislations in order to curb the deteriorating condition of women across the country, the cases related to bride burning, cruelty, suicide, sexual harassment, rape, suicide by married women etc. have increased and are taking place day by day. A complete overhaul of the system is a must in the form of deterrent punishment for the offenders so that we can effectively deal with the problem. In the case on hand, Vandana died within 3 years of her marriage at the instance of her mother-in-law and sisters-in-law due to the harassment meted out to her because of the inability to conceive a child and she was poured kerosene and burnt to death. Even though, the mother-in-law, who also filed a separate appeal, died on 10.02.2012, in view of clinching evidence led in by the prosecution, there cannot be any leniency in favour of the appellants, who are sisters-in-law of the deceased and at whose instance the deceased was burnt at the hands of her mother-in-law."*

10. We have also gone through the judgments of ***Jagdish (supra) and Uday (supra)***. The underlying principle in both these judgments is that the benefit of a liberal policy must be extended to a convict. In ***Jagdish (supra),*** the issue before the Hon'ble Supreme Court was whether the convict's case for premature release ought to be considered under the policy prevalent at the time of conviction or under the subsequent policy when the remission is to be considered. The convict in that case was entitled to the benefit of a more liberal policy that existed on the date of his conviction. However, the State applied the subsequent policy, which was less beneficial to him. The Hon'ble Supreme Court held that while a policy in force at the time of conviction ordinarily applies, if a more liberal policy exists on the date of actual consideration for premature release, the convict must be given benefit of such a favourable policy. In ***Uday (supra),*** it is held that not only the benefit of a liberal policy should be extended to a convict but this principle also applies to a situation where the facts of the case attract multiple categories under the very same guidelines, the same must be considered liberally and shall be made applicable.

11. The petitioner has placed much emphasis on the observations made in ***Usha (supra),*** but in that case, the petitioner therein was placed in category 6(A) and was seeking category 1(B). The category 6(A) deals with "Murders committed by gangsters, contract killers, racketeers etc.", whereas in the case in hand, the petitioner is placed in category 2(C), which is for "Offences relating to crime against Women and Minor" and the petitioner is seeking category 1(B) for "Offences relating to crime by Women". Herein, there is conflict between two categories as both the categories are related to women, one is for the offences committed by women and one is for the offences committed against women. There was no such conflict in ***Usha (supra).*** We find that in the present case, the victim is also a woman and the accused is also a woman. This Court (Coram : S.S. Shinde & R.G. Avachat, JJ.) in ***Tolabai w/o Raosaheb @ Dabya Kale Vs. The State of Maharashtra and another in Criminal Writ Petition No.61 of 2019, decided on 13.02.2019,*** in similar facts and circumstances, while distinguishing the judgment in ***Usha (supra)*** has observed that, *"in the facts of the judgment in the case of Usha Munna Upadhyay, cited supra,*

the Division Bench did not consider that category 2 in the guidelines of 2010, is special category for the offences relating to crimes against women and minors. Therefore, the observations of the Division Bench to the extent that, "Category 1 laid down in aforesaid Guidelines of 2010 is special category and all other categories are general categories", would not be applicable to the present case, as the facts of the present case are different than the facts in the case of Usha Munna Upadhyay, cited supra." The case in hand can be distinguished with the observations in ***Usha (supra),*** for the same reasons as observed in ***Tolabai (supra)***.

12. In the case in hand, the victim and accused both are women and due to such peculiar circumstance, the application of categories will have to be harmoniously construed. The Supreme Court in the decision of ***Jagdish (supra)*** does not state that whichever category in a particular guideline is more beneficial to the convict should be applied but, only speaks of the different policies of the Government and not in relation to one particular policy. No doubt, the law has always been in favour of the accused but some consideration is also required to be given to the victim. The case of the victim cannot be totally neglected. That would be

the travesty of justice. In our view, it should be kept in mind that a liberal approach or beneficial interpretation cannot be equated with erroneous approach or incorrect application of guidelines issued for remission.

In category 2(C), death of a woman due to burns has been added looking at the occurrence of huge number of dowry deaths, due to burns. In order to deter such dowry deaths, this category has been amended to include death of a woman caused due to burns and higher period of imprisonment is provided. This category was not there in the guidelines of 1992. The categories 1 and 2 are introduced only in the guidelines of 2010. The objects and reasons for adding these categories will have to be borne in mind.

13. In the present case, as observed by the Hon'ble Supreme Court that "the victim Vandana died within 3 years of her marriage at the instance of her mother-in-law and sisters-in-law due to the harassment meted out to her because of the inability to conceive a child and she was poured kerosene and burnt to death". It is clear that the cause of the death of the victim was due to burns and category 2(C) specifically deals with "death due to burns". In

such a situation, harmonious construction is required and hence, we deem it appropriate to categorize the case of the petitioner in category 2(C) of the Guidelines of 2010. In this view of the matter, we are not inclined to interfere with the decision of the authorities of placing the petitioner in category 2(C) of the Guidelines of 2010 for premature release.

14. In view of the above, the Writ Petition is dismissed. Rule is discharged accordingly.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C.MORE]
JUDGE