IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1418 OF 2026

Anwarkhan S/o Sandhukhan Pathan

... PETITIONER

VERSUS

The State of Maharashtra
and another

... RESPONDENTS

...

Mr.Rupesh A. Jaiswal, Advocate for the Petitioner
Mr.Govind A. Kulkarni, APP for Respondent nos.1 and 2.

...

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

DATED : 03.11.2026

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

. The present Writ Petition is filed by the petitioner claiming special remission under the Government Resolution dated 03.06.2017 issued on the occasion of 125th Birth Anniversary of Dr. Babasaheb Ambedkar whereby the benefit of three months remission is given to the convicts suffering imprisonment of more than five years or life sentence.

2. The petitioner was convicted by the Additional Sessions Judge, Aurangabad for the offence punishable under Section 302 of the Indian Penal Code, 1860 and was sentenced to suffer imprisonment for life. In an appeal before this Court, the said conviction was converted from Section 302 to Section 304-II of the Indian Penal Code, 1860 and sentence of imprisonment for life was reduced to 10 years.

3. Heard learned counsel for the petitioner and learned A.P.P.

4. The Government of Maharashtra under Government Resolution dated 03.06.2017, has granted special remission as contemplated under Section 432(1) of the Code of Criminal Procedure, 1973. Accordingly, the convicts are categorized as per their conviction period and to that proportion, the duration of special remission has been determined. The Government Resolution provides six categories, as reproduced below, which are held ineligible for such special remission :-

"१. फौजदारी दंड प्रक्रियेच्या (Criminal Procedure Code) कलम-१०६ ते ११० अंतर्गत (चॅप्टर केसेस) कारागृहात शिक्षा भोगत असलेले बंदी.

२. भारतीय दंड संहितेच्या (I.P.C.) कलम-१२१ ते १३० अंतर्गत (राज्यविरोधी कारवाईचा गुन्हा) शिक्षा भोगत असलेले बंदी.

३. केंद्रीय कायद्यांतर्गत शिक्षा झालेली बंदी.

४. दिवाणी कायद्यांतर्गत शिक्षा भोगत असलेले बंदी.

५. किशोर सुधारालयातील मुले

६. अनधिकृतपणे कारागृहाबाहेर असलेले शिक्षाधीन बंदी."

5. Perusal of the record shows that the said benefit of three months special remission has been denied to the petitioner on the basis of the opinion of the learned Additional Sessions Judge, Aurangabad dated 23.04.2026. A careful perusal of the said opinion letter shows that the learned Additional Sessions Judge, Aurangabad was considering the petitioner's case for premature release and it does not appear that the said opinion of the learned Additional Sessions Judge, Aurangabad was in the context whether the petitioner falls under ineligible categories mentioned in the Government Resolution.

6. The petitioner is eligible for the remission of three months as per the Government Resolution dated 03.06.2017 as he does not fall in the ineligible categories mentioned therein. The petitioner has also stated in the petition that the petitioner has undergone actual imprisonment of five years and ten months, and including remission nine years and ten months. Accordingly, the petition is allowed in terms of prayer clause "A" and the same is disposed of.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE

SGA