



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1357 OF 2025

1. Dagadu S/o Chavdas Barhate,
Age : 74 Years, Occ. Convict,
At present Confined in Central Jail
Nasik, Permanent R/o Nashirabad village,
Dist. Jalgaon. **..PETITIONER**

VERSUS

1. The State of Maharashtra,
Through Superintendent of Jail,
Central Jail, Nasik.
2. The State of Maharashtra,
Through Secretary,
Hone Department (Prison),
Mumbai 40005. **..RESPONDENTS**

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Advocate for the Petitioner : Mr. Rupesh A. Jaiswal
A.P.P. for Respondent Nos. 1 and 2/State : Mr. P.K. Lakhotiya

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**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

**RESERVED ON : JANUARY 14, 2026
PRONOUNCED ON: FEBRUARY 24, 2026**

JUDGMENT (PER SANDIPKUMAR C. MORE, J) :-

1. Heard rival submissions of learned counsel for the petitioner and learned A.P.P. for the Respondent/State.
2. Rule. Rule made returnable forthwith. Heard finally with consent of the rival parties.

3. By way of this petition, the petitioner, who has been convicted for life imprisonment, is seeking quashment of impugned order dated 21.01.2025, passed by respondent No.2, thereby directing him to place under the category of 4(d) and 5(a) of Guidelines dated 15.03.2010. According to the petitioner, respondent No.2 should have placed him in category 3(b) of the aforesaid Guidelines of 2010.

4. The learned counsel Mr. Jaiswal for the petitioner submits that, the impugned order is passed erroneously. According to him, the petitioner has been erroneously placed in the category of 4(d) and 5(a) of the Guidelines of 2010. He submits that since the incident arose out of land dispute, the petitioner ought to have been placed in category 3(b). In support of his submissions, the learned counsel for the petitioner placed reliance on the following judgments :-

- (i) ***State of Haryana Vs. Jagdish [2010 CJ (SC)1946]***
- (ii) ***High Court of Bombay at Principal Seat in Shrikant S/o Paragonda Basrgi Vs. The State of Maharashtra and another in Writ Petition No. 2355 of 2023 decided on 9th October, 2023.***
- (iii) ***High Court of Bombay at Principal Seat in Arvind S/o Nathuram Vatkari Vs. State of Maharashtra and Another in Writ Petition No. 2471 of 2024 decided on 24th June, 2024.***

5. Per contra, the learned A.P.P. Mr. P .K. Lakhotiya for the respondents opposed the submission by supporting the impugned order. According to him, respondent No.2 has placed the petitioner correctly under the category of 4(d) and 5(a) of the 2010 Guidelines. He pointed out that there was political rivalry between the present

petitioner and the deceased Digambar, which can be evident from the judgment of this Court in Criminal Appeal No. 682 of 2008. Therefore, he submits that as per the impugned order, the petitioner has to undergo imprisonment of 24 years inclusive of all the remissions.

6. With the help of learned counsel for the petitioner and learned A.P.P. we have gone through the material on record along with the impugned order. Admittedly, this Court in Criminal Appeal No.682 of 2008 and others, has observed that deceased Digambar was Sarpanch of Grampanchayat of village Beli and there was dispute between the deceased Digambar and the present petitioner prior to 7/8 years of the incident on account of Gram Panchayat election. As such, the learned A.P.P. justified the impugned order, whereby the petitioner has been placed under category 4(d) and 5(a), which reads as thus :-

“4(d)” Murder committed by more than one person/group of persons.

“5(a)” Murders arising out of political rivalry and political interest, without premeditation.

7. However, on going through the impugned order it also appears that prior to the incident, there was dispute between one Vijay Shivram Wagh and accused Shantabai Shivdas Patil on account of cutting of sticks from the agricultural field of P.W.7 Tushar Choudhari and on that count, the petitioner and co-accused caused death of Digambar. Thus, it appears that category 3(b) of the 2010

Guidelines is also applicable in the instant matter, as the incident had taken place on account of land dispute. We would like to reproduce the category 3(b) as under :-

“3” Murder arising out of land dispute, family feuds, family prestige and superstition

3(b) Crime committed as above with premeditation, either individually or by gang.

8. Admittedly, in the case of ***State of Haryana and others Vs. Jagdish reported in A.I.R. 2010 SC 1690*** the Hon’ble Apex Court has made following observations :-

“ 20. The right of the respondent prisoner, therefore, to get his case considered at par with such of his inmates, who were entitled to the benefit of the said policy, cannot be taken away by the policy dated 13.08.2008. This is evident from a bare perusal of the recitals contained in the policies prior to the year 2008, which are referable to Article 161 of the Constitution. The High Court, therefore, in our opinion, was absolutely justified in arriving at the conclusion that the case for the respondent was to be considered on the strength of the policy that was existing on the date of his conviction. State authority is under an obligation to at least exercise its discretion in relation to an honest expectation perceived by the convict, at the time of his conviction that his case for pre-mature release would be considered after serving the sentence, prescribed in the short sentencing policy existing on that date. The State has to exercise its power of remission also keeping in view any such benefit to be

construed liberally in favour of a convict which may depend upon case to case and for that purpose, in our opinion, it should relate to a policy which, in the instant case, was in favour of the respondent. In case a liberal policy prevails on the date of consideration of the case of a “lifer” for premature release, he should be given benefit thereof.”

9. Further, relying on the aforesaid observations, the Co-ordinate Bench of this Court in the case of ***Uday S/o Dhaku Sutar Vs. The State of Maharashtra & Another in Criminal Writ Petition No. 4544 of 2021*** at Principal Seat has made following observation :-

“14. The category 4(e) is under the heading “murder for the other reasons”. It is true that the murders in the present case have been committed with exceptional violence. However, murders arising out of land dispute are categorized under Guideline 3. As held by the Co-ordinate Bench of this Court in case of Uday S/o Dhaku Sutar Vs. The State of Maharashtra and Another passed in Criminal Writ Petition No. 4544 of 2021, the principle of giving benefit to the convict of beneficial policy certainly applies to two different policies/guidelines but the same will also apply to the categories in the same/policy/guidelines, if case falls under both the categories. As such even if it is assumed that category 3 and 4 of 2010 guidelines applies, category 3(b) being beneficial to the convict will apply.”

10. Thus, on going through the aforesaid observations, when

it comes to a case which falls under different categories of the Guidelines of 2010, then the category which is beneficial to the convict, needs to be chosen. In the instant case, the incident had taken place on account of land dispute and there was also political rivalry between the present petitioner and the deceased. However, deceased was not the only accused in this matter, but certain other accused were also there, out of them, one Ankush had stabbed the deceased Digambar on the left side of his chest with a knife. Considering these facts, category 3(b), which is more beneficial to the petitioner, needs to be chosen in case of present petitioner.

11. In view of the above discussion, the impugned order dated 21.01.2025 passed by respondent No.2 is hereby quashed and set aside. We direct that the case of the petitioner be placed under category 3(b) of the Guidelines dated 15th March, 2010.

12. Petition is allowed and Rule is made absolute in the above terms. Accordingly, the petition stands disposed of.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE