

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.329 OF 2026

Shailesh Gulab Dhage

Petitioner

Versus

1. The State of Maharashtra

2. Inspector General of Prisons,
Yerwada, Pune

Respondents

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Mr. Rupesh Jaiswal, Advocate for the petitioner.

Mrs. M.N. Ghanekar, A.P.P. for the respondents.

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

Reserved on : 05.05.2026

Pronounced on : 07.05.2026

Order (Per Sandipkumar C. More, J.) :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the petitioner and learned A.P.P.

2. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner (Convict No.4884), who is inmate of Open Jail, Paithan, District Chhatrapati Sambhajanagar, is seeking direction to the respondents to consider his sentences of imprisonment under Sections 302, 147 and 148 of the Indian Penal Code (for short, "I.P.C.") in

Sessions Case No.234/2008 to run concurrently and further direct them to release him forthwith.

3. Learned counsel for the petitioner submits that the petitioner/convict was arrested on 09.10.2007 for the offence under Sections 302, 147 and 148 of I.P.C. and vide judgment dated 11.11.2010, he is convicted in the aforesaid Sessions Case No. 234/2008 alongwith the co-accused, as follows :

Offence	Punishment
Under Sec.147 of I.P.C.	Rigorous Imprisonment for one year.
Under Sec.148 of I.P.C.	Rigorous Imprisonment for two years.
	Both the sentences under Sections 147 and 148 of I.P.C. to run concurrently.
Under Sec. 302 of I.P.C.	Imprisonment for life and to pay fine of Rs. 1000/-, in default, rigorous imprisonment for six months.

4. Learned counsel for the petitioner submits that thereafter the State Government on 14.05.2024 passed order under Section 432 of the Code of Criminal Procedure placing the petitioner in the category of 4(E) of 2010 Guidelines and determined the period of his imprisonment of 26 years inclusive of all remissions and after undergoing the said

sentence, he be released from the jail. Learned counsel for the petitioner submits that as per the jail record, the petitioner has already undergone imprisonment alongwith all remissions for the period of 25 years, 1 month and 11 days as on 28.02.2026. He, therefore, pointed out that after completion of period of 26 years inclusive of all the remissions the petitioner is entitled for release from the Open District Prison, Paithan. However, according to him, the respondents are not ready to release him and they are insisting that as per the judgment of aforesaid sessions case, the petitioner yet to undergo the sentence of imprisonment for the offence under Sections 147 and 148 of I.P.C. which is to run concurrently for two years, after completion of aforesaid period of 26 years. According to the learned counsel for the petitioner, the act of respondents is contrary to the direction of the Hon'ble Apex Court in the case of *Muthuramlingam and others vs. State*, reported in *2016 AIR (SC) 3340*.

5. On the contrary, learned A.P.P. strongly opposed the submissions made on behalf of the petitioner by filing affidavit in reply. According to him, as per Section 31 (1) of the Code of Criminal Procedure, imprisonment for 2 years awarded for the offence punishable under Sections 147 and

148 of I.P.C. is yet to be undergone by the petitioner, as the learned Sessions Judge did not specify that the life imprisonment awarded to him was to run concurrently with the imprisonment for the offences under Sections 147 and 148 of I.P.C. Learned A.P.P. heavily relied on the judgment of Hon'ble Apex Court in the case of ***Sunil Kumar @ Sudhir Kumar and another vs The State of Uttar Pradesh in Criminal Appeal No. 526 of 2021.***

6. Heard rival submissions. Also perused the material placed on record with the help of the learned counsel for the petitioner and the learned A.P.P.

7. Admittedly, the learned Sessions Judge, in the judgment of Sessions Case No.234/2008, has stated about running of sentences of imprisonment awarded for the offences punishable under Sections 147 and 148 of I.P.C. concurrently, but did not specify as to whether the life imprisonment to run concurrently or consecutively with the aforesaid sentence. It is important to note that one of the co-accused in the aforesaid crime namely Ajit Krishna Ghanekar had filed Criminal Writ Petition No.1627 of 2025 for similar relief as claimed by this petitioner, before this Court and at

that time this Court by considering the ratio laid down by Hon'ble Apex Court in the case of **Muthuramlingam** (supra), had granted his reliefs which are similar to the present prayers. We would like to reproduce the observation of Hon'ble Apex Court in said case, as below.

*“30. We are not unmindful of the fact that this Court has in several other cases directed sentences of imprisonment for life to run consecutively having regard to the gruesome and brutal nature of the offence committed by the prisoner. For instance, this Court has in **Ravindra Trimbak Chouthmal v. State of Maharashtra, (1996) 4 SCC 148**, while commuting death sentence penalty to one of imprisonment for life directed that the sentence of seven years rigorous imprisonment under Section 207 IPC shall start running after life imprisonment has run its due course. So also in **Ronny v. State of Maharashtra (1998) 3 SCC 625** this Court has while altering the death sentence to that of imprisonment for life directed that while the sentence for all other offences shall run concurrently, the sentence under Section 376 (2)(g) shall run consecutively after running of sentences for other offences. To the extent these decisions may be understood to hold that life sentence can also run consecutively do not lay down the correct law and shall stand overruled”.*

Further, the Full Bench of the Hon'ble Apex Court in the same case has also made the following observation :

“32. We may, while parting, deal with yet another dimension of this case argued before us namely whether the Court can direct life sentence and term sentences to run consecutively. That aspect was argued keeping in view the fact that the appellants have been sentenced to imprisonment for different terms apart from being awarded imprisonment for life. The Trial Court's direction affirmed by the High Court is that the said term sentences shall run consecutively. It was contended on behalf of the appellants that even this part of the direction is not legally sound, for once the prisoner is sentenced to undergo imprisonment for life, the term sentence awarded to him must run concurrently. We do not, however, think so. The power of the Court to direct the order in which sentences will run is unquestionable in view of the language employed in Section 31 of the Cr.P.C. The Court can, therefore, legitimately direct that the prisoner shall first undergo the term sentence before the commencement of his life sentence. Such a direction shall be perfectly legitimate and in tune with Section 31. The converse however may not be true for if the Court directs the life sentence to start first it would necessarily imply that the term sentence would run concurrently. That is because once the prisoner spends his life in jail, there is no question of his undergoing any further sentence. Whether or

not the direction of the Court below calls for any modification or alteration is a matter with which we are not concerned. The Regular Bench hearing the appeals would be free to deal with that aspect of the matter having regard to what we have said in the foregoing paragraphs”.

8. Moreover, this Court had refused to rely on the judgment of the Hon’ble Apex Court in the case of **Sunil Kumar** (supra) relied by the learned APP mainly because that was passed by the Hon’ble Apex Court invoking its power under Article 142 of the Constitution of India. Needless to mention that, such powers are not available with this Court.

9. Thus, the Hon’ble Apex Court in the case of **Muthuramlingam** (supra) has laid down the law that if the accused is sentenced separately with life imprisonment for the offence under Section 302 of I.P.C. and with term sentences for any other offence, then, it is not correct law that the sentence for life imprisonment shall run consecutively after running of sentences of other offences. It is also made clear by the Hon’ble Apex Court in the said judgment that if the Court directs life sentence to start first, it would necessarily imply that the term sentence would run concurrently as once the prisoner spends his life in jail, there

is no question of his undergoing any further sentence.

10. In the instant case, it appears that the petitioner has to undergo the sentence of imprisonment for 26 years as per the order under Section 432 of Cr.P.C. on 14.05.2024 placing him again in the category of 4(E) of 2010 Guidelines, including all the remissions. Further, as per own record of respondent No.2, which is placed on record by the learned APP, it is clearly evident that the petitioner/convict has already undergone sentence of imprisonment alongwith all remissions for the period of 25 years, 1 month and 11 days as on 28.02.2026. Under such circumstances and ratio laid down by the Hon'ble Apex Court in the case of **Muthuramlingam** (supra), the respondents cannot insist the petitioner to undergo sentence of two years awarded to him by the learned Sessions Judge in the aforesaid sessions case for the offences punishable under Sections 147 and 148 of I.P.C. after completing the sentence of 26 years including all the remissions.

11. In view of the above discussion, the present criminal writ petition is allowed and the respondents are directed to release the petitioner/convict Shailesh Gulab

Dhage (C-4884) after having undergone the sentence of 26 years (inclusive of all remissions), if not required in any other case.

12. The petition thus stands partly allowed and the Rule is made absolute in above terms.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE