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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4512 OF 2026

Vaishali Dinesh Mene ..Petitioner
Versus
State Of Maharashtra and Ors. ..Respondents

Ms. Ankita Naik for the Petitioner.
Ms. Gauri Rao, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL &
RANJITSINHA RAJA BHONSALE, JJ.

DATE : 7th OCTOBER 2026

PC :

1. Heard, Ms. Ankita Naik, learned Counsel for the Petitioner and Ms. Gauri Rao, learned APP for the Respondent-State.

2. Rule. Rule is made returnable forthwith, by consent of the parties.

3. The Petitioner has challenged the Order dated 30th July 2026 passed by the Respondent No.3-Home Department, Mantralaya, Mumbai. Vide the impugned Order, the Petitioner was

placed in Category 2(c) of Annexure I of the Government Resolution dated 15th March 2010. According to that Category, she has to complete 26 years of imprisonment, including remission.

4. The contention of the learned Counsel for the Petitioner is that the Petitioner is wrongly placed in Category 2(c). In fact, there is a separate Category for offences relating to crimes by women in Category 1. At the highest, the case would fall within Category 1(b) which provides for imprisonment of 20 years, including remission. The learned Counsel relied on the Order passed by the Division Bench of this Court in Criminal Writ Petition No. 3701 of 2012 in the case of ***Usha Munna Upadhyay Vs. The State of Maharashtra.***

5. Learned APP, on the other hand, submitted that the manner in which the offence was committed would invite Category 2(c) and the impugned Order is correct. Category 2(c) imposes punishment of 26 years with remission.

6. We have considered these submissions. The categorisation is given in Annexure I in the Government Resolution

dated 15th March 2010. There is a separate category for offences relating to crimes by women as Category (1). Category 1(b) mentions that where the convict has committed the murder with premeditation or by gang the period provided is 20 years.

7. The authorities have applied Category 2(c) which is relating to offences of crime against women and minors. Category 2(c) lays down that where the crime is committed with exceptional violence and/or with brutality, or death of victim due to burns where the period of imprisonment is given as 26 years.

8. In the present case, the Petitioner was convicted by the Additional Session Judge, Pune, in Special Case No. 676 of 2009 for commission of the offences punishable under Section 302 read with 34 of IPC and under Section 498A of IPC. The allegations were that the deceased was wife of the Petitioner's husband's brother and, hence, she was the sister-in-law of the Petitioner. The Petitioner and her mother-in-law committed murder of the deceased and, therefore, both were convicted.

9. In this context, the observations of the Division Bench in

the case of ***Usha Munna Upadyay*** are important. Paragraphs 17 to 21 reads thus :

> *17 The categorization in the guidelines is to be harmoniously constructed. Assuming that the offence committed by the petitioner falls in Category 6(a) of the 2010 guidelines because of the nature of the offence, still, considering that the petitioner is a woman, the offence committed by her, falls within Category 1 of the 2010 guidelines. The only question is what should prevail.*
> *18 We find that the Category 1 is a special Category relating to 'Crime by Women' which is divided in two sub categories (a) and (b). The other categories are based on the classification of offences, and not on the classification of the offenders on the basis of gender. Thus, the provision with respect to the offences committed by woman, is a special Category and the other categories are general.*
> *19 The categorization as '**Crime by Women**' in Category 1, indicates that so far as women offenders are concerned, the applicability of other categories is ruled out. It is a settled principle of interpretation of statutes and instruments, that if a special provision is made on a certain matter, that matter is excluded from general provision. This principle is expressed in the maxims Generalia specialibus non derogant, and Generalia specialibus derogant. Since, in this case, a special provision has been made with respect to the offences or crimes by women, the applicability of the other provisions of a general nature to women offenders, is excluded.*
> *20 It is not possible to take any other view of the matter, inasmuch as, if women offenders are attempted to be fitted in other categories, the Category 1 would be rendered totally and wholly redundant. For instance, the women offenders falling under Category 1(a) can fall also in categories 2(a) and 3(a) and the Women Offenders falling under Category 1(b) can fall in categories 2(b) and 3(b) etc. also. If women offenders were to be placed in other categories, the separate Category of women need not have been created at all.*
> *21 In our opinion, Category 1 of the 2010 guidelines which*

> *is exclusively for women offenders must cover all the cases of women offenders, and the women offenders can be fitted only in that Category. Because of the creation of a special Category of women offenders, the other categories which are of a general nature, classified on the basis of nature of offences, would not apply to women offenders. Consequently, we hold that the order dated 4 September 2012 passed by the Government of Maharashtra placing the petitioner in Category 5(b) of the 1992 guidelines and Category 6(a) of the 2010 guidelines, is not proper and that the petitioner may be placed in Category 1(b) of the 2010 guidelines for considering her premature release.*

10. We are in respectful agreement with those observations and, therefore, the Petitioner's case would fall within Category 1(b). In any case, the more beneficial provision has to be applied while placing a convict in a particular Category. Therefore, we find substance in the submission of the learned Counsel for the Petitioner that the Petitioner was required to be placed in Category 1(b) for which the period of imprisonment is given as 20 years including remission.

11. The learned APP states that as on 30th September 2026, the Petitioner has completed 25 years, 8 months and 29 days of imprisonment. In this view of the matter, the Petitioner will have to be released forthwith. Hence, the following Order :

ORDER

(i) The impugned Order dated 30th July 2026 passed by Respondent No.3 is set aside.

(ii) The Petitioner be released forthwith, if not required in any other case.

(iii) The Rule is made absolute in the aforesaid terms.

(RANJITSINHA RAJA BHONSALE, J.) **(SARANG V. KOTWAL, J.)**