

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO.294 OF 2021

MAHAVIR

PETITIONER(S)

VERSUS

THE STATE OF MADHYA PRADESH & ORS.

RESPONDENT(S)

O R D E R

The petitioner has invoked the writ jurisdiction of this Court claiming his release for the reason that he has undergone more than 21 years of sentence including 16 years of actual sentence.

The petitioner was convicted along with other accused for an offence under Section 302 read with Section 149 IPC for causing murder of two persons on 28.09.2005.

The claim of the petitioner is based upon the policy dated 11.08.2005 and 17.01.2006. The learned Counsel for the petitioner argued that the petitioner is entitled for remission for the reason that he has completed 20 years of sentence including remission. However, we do not find that the petitioner is covered by any of the two policies.

The policy dated 11.08.2005 is in respect of the convicts who are convicted prior to 11.08.2005. Such policy was issued for granting remission on the eve of Independence Day i.e. 15.08.2005.

The petitioner was convicted thereafter on 28.09.2005. Therefore, benefit of such policy cannot be availed by the petitioner.

The policy dated 17.01.2006 is in respect of the convicts who have been convicted on or before 26.01.2006. The petitioner relies upon sub-Clause (2) of Clause 1 of policy No.F.No.3-2/2006/3/Jail dated 17.01.2006 which reads as under:-

“Prisoners sentenced to imprisonment for life after 18<sup>th</sup> December, 1978 who have undergone 14 years of sentence inclusive of undertrial periods and completed 20 years of sentence including remission on 26<sup>th</sup> January, 2006, be released unconditionally.”

However, the benefit of such clause cannot be availed by the petitioner for the reason that he has not completed 20 years of sentence including the remission on 26.01.2006.

The policy which will be applicable to the petitioner is the policy dated 10.01.2012 wherein the following clauses are relevant:

“1. A) Remission in conviction of convicts who have been sentenced to undergo life imprisonment.

(1) Such life convicts who have not been convicted for any other period along with the life imprisonment and have undergone sentence of 14 years including the period of trial, they will be released after completion of 20 years sentence including the remission period”

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(5) Such life convicts who have been sentenced for one or more life imprisonment besides the life imprisonment and who have undergone 20 years sentence including the trial period, they will be released after completion of 26 years of sentence including the remission.”

The grievance of the petitioner is that though the petitioner is an accused of killing two persons but the punishment of only one life imprisonment could be granted in view of judgment of this Court in "Muthuramalingam & Ors. Vs. State Rep. by Inspector of Police, reported in (2016) 8 SCC 313". Therefore, Clause (5) of the Policy dated 10.01.2012 will not be applicable.

We do not find any merit in the said argument.

In terms of the policy of sentencing, there cannot be consecutive life imprisonment one after the another. But the fact remains that for each of the death of the victim, the petitioner has been convicted for an offence under Section 302 IPC. Therefore, it would be Clause (5) which will be applicable to consider the premature release case of the petitioner as he has been sentenced for more than one life imprisonment for causing death of two persons. The Competent Authority has declined the case of remission on relying upon Clause (5). It is not a case of imposition of life imprisonment consecutively. It is a case of imposition of concurrent life imprisonment. Such sentence of imprisonment is not the subject matter in an appeal before the Competent Court.

In view thereof, we do not find any merit in the present writ petition.

The writ petition is dismissed accordingly.

Pending application(s), if any, also stand disposed of.

.....J.  
[HEMANT GUPTA]

.....J.  
[V. RAMASUBRAMANIAN]

NEW DELHI;  
13<sup>th</sup> SEPTEMBER, 2021

ITEM NO.15 Court 10 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s). 294/2021

MAHAVIR Petitioner(s)

VERSUS

THE STATE OF MADHYA PRADESH & ORS. Respondent(s)

(FOR ADMISSION; IA No. 80539/2021 - EXEMPTION FROM FILING O.T., IA No. 80540/2021 - GRANT OF BAIL)

Date : 13-09-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Mr. Rishi Malhotra, AOR

For Respondent(s) Mr. Pashupati Nath Razdan, AOR.  
Mr. Palav Agarwal, Adv.  
Mr. KP Jayram, Adv.  
Ms. Maitreyee Jagat Joshi, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The writ petition is dismissed in terms of the signed order.

Pending applications, if any, also stand disposed of.

(SWETA BALODI)  
COURT MASTER (SH)

(RENU BALA GAMBHIR)  
COURT MASTER (NSH)

(Signed order is placed on the file)