

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 2831/2023

STATE OF MAHARASHTRA & ORS.

Appellant(s)

VERSUS

PRADEEP YASHWANT KOKADE & ANR.

Respondent(s)

(IA No. 70953/2020 - PERMISSION TO FILE LENGTHY LIST OF DATES)

WITH Cr1.A. No. 2832/2023

(IA No. 72846/2020 - PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 09-12-2024 These matters were called on for pronouncement
of judgment today.

For Appellant(s)

Mr. Aaditya Aniruddha Pande, AOR
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Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, Adv.
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For Respondent(s)

Mr. Vairawan A.S, AOR
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Mr. Avinash Kumar, Adv.
Mr. Santhosh K., Adv.

Mr. K M Nataraj, A.S.G.
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Ms. Indira Bhakar, Adv.
Mr. Vatsal Joshi, Adv.
Mr. Anuj Srinivas Udupa, Adv.
Mr. Chitransh Sharma, Adv.
Ms. Satvika Thakur, Adv.
Mr. Yogya Rajpurohit, Adv.
Mr. Aayush Saklani, Adv.
Mr. Tanmay Mehta, Adv.
Ms. Nikita Capoor, Adv.

Hon'ble Mr. Justice Abhay S.Oka pronounced the Reportable judgment of the Bench comprising His Lordship, Hon'ble Mr. Justice Ahsanuddin Amanullah and Hon'ble Mr. Justice Augustine George Masih.

The appeals are dismissed in terms of signed Reportable judgment. The operative part of the judgment reads as under:

"43. Hence, we pass the following order:

- i. The impugned judgment and order, by which the death sentence of the convicts has been commuted to a fixed sentence of thirty-five years of imprisonment, is upheld, and Criminal Appeals are dismissed;
- ii. As regards the mercy petitions, we issue the following directions to all the State Governments and Union Territories:
 - A. A dedicated cell shall be constituted by the Home Department or the Prison Department of the State Governments/Union Territories for dealing with mercy petitions. The dedicated cell shall be responsible for the prompt processing of the mercy petitions within the time frame laid down by the respective governments. An officer-in-charge of the dedicated cell shall be nominated by designation who shall receive and issue communications on behalf of the dedicated cell;
 - B. An official of the Law and Judiciary or Justice Department of the State Governments/Union Territories should be attached to the dedicated cell so constituted;
 - C. All the prisons shall be informed about the designation of the officer-in-charge of the dedicated cell and his address and email ID;
 - D. As soon as the Superintendent of Prison/officer-in-charge receives the mercy petitions, he shall immediately forward the

copies thereof to the dedicated cell and call for the following details/information from the officer-in-charge of the concerned Police Station and/or the concerned investigation agency;

- a. The criminal antecedents of the convict;
- b. Information about family members of the convict;
- c. Economic condition of the convict and his/her family;
- d. The date of arrest of the convict and the period of incarceration as an undertrial; and,
- e. The date of filing charge sheet and a copy of the committal order, if any.

On receipt of the request made by the jail authorities, the officer-in-charge of the concerned police station shall be under an obligation to furnish the said information to the jail authorities immediately;

- E. On receipt of the said information, without any delay, the jail authorities shall forward the following documents to the officer-in-charge of the dedicated cell and the Secretary of the Home Department of the State Government:

- a. Information furnished as aforesaid by the concerned Police Station with its English translation;
- b. Copy of the First Information Report with its English translation;
- c. Details, such as date of arrest of the convict, date of filing of chargesheet and actual period of incarceration undergone by the convict;
- d. A copy of the committal order, if any, passed by the learned Judicial Magistrate;
- e. A copy of charge-sheet with its English translation;
- f. Report about the conduct of the convict in prison;
- g. Copies of the notes of evidence, all exhibited documents in the trial and copies of statements of convicts under Section 313 of the CrPC with its English translation;
- h. Copies of the judgments of the Sessions

Court (with its English translation, if it is in vernacular language), High Court and this Court;

- F. As soon as mercy petitions are received by the dedicated cell, copies of the mercy petitions shall be forwarded to the Secretariats of the Hon'ble Governor of the State or the Hon'ble President of India, as the case may be so that the Secretariat can initiate action at their end;
- G. All correspondence, as far as possible, be made by email, unless confidentiality is involved; and,
- H. The State Government shall issue office orders/executive orders containing guidelines for dealing with the mercy petitions in terms of this judgment.

iii. The Registry of this Court shall forward copies of this judgment to the Secretaries of the Home Department of the respective State Governments/Union Territories for its implementation. The Secretaries shall report compliance within three months from today to the Registrar (Judicial) of this Court;

iv. The Sessions Court shall endeavour to follow the following guidelines:

- a. As soon as the order of the High Court confirming or imposing the death sentence is received by the Sessions Court, a note thereof must be taken, and the disposed of case shall be listed on the cause list. The proceedings can be numbered as Misc. Application depending upon the applicable Rules of the procedure. The Sessions Court shall immediately issue notice to the State Public Prosecutor or the investigating agency calling upon them to state whether any appeal or special leave petition has been preferred before this Court and what is the outcome of the said petition/appeal;
- b. If the State Public Prosecutor or the investigating agency reports that the appeal is pending, as soon as the order of this Court confirming or restoring the death sentence is received by the Sessions Court,

again, the disposed of case or miscellaneous applications should be listed on the cause list and notice be issued to the State Public Prosecutor or the investigating agency to ascertain whether any review/curative petitions or mercy petitions are pending. If information is received regarding the pendency of review/curative petitions or mercy petitions, the Sessions Court shall keep on listing the disposed of case after intervals of one month so that it gets the information about the status of the pending petitions. This will enable the Sessions Court to issue a warrant for the execution of the death sentence as soon as all the proceedings culminate;

- c. However, before issuing the warrant, notice should be issued to the convict, and the directions issued by the Allahabad High Court in the case of *People's Union for Democratic Rights (PUDR)*¹⁰, and as elaborated above, shall be implemented by the Sessions Court;
- d. The Sessions Courts shall consider what is held in Paragraph 25 above;
- e. Copies of the order issuing the warrant and the warrant shall be immediately provided to the convicts, and the Prison authorities must explain the implications thereof to the convicts. If the convict so desires, legal aid be immediately provided to the convicts by the Prison authorities for challenging the warrant. There shall be a gap of fifteen clear days between the date of the receipt of the order as well as warrant by the convict and the actual date of the execution; and,
- f. It shall also be the responsibility of the concerned State Government or the Union Territory administration to apply to the Sessions Court for the issuance of a warrant immediately after the death penalty attains finality and becomes enforceable.
- v. A copy of this judgment shall be forwarded to both the convicts through the Jail Superintendent of the concerned jail.
- vi. A copy of this judgment shall be forwarded to the Registrar Generals of all the High Courts, who in turn shall forward the copies thereof to all the

Sessions Courts.

vii. These disposed of appeals shall be listed on 17th March 2025 for considering compliance."

As directed, list these appeals on 17th March, 2025 for considering compliance.

Pending applications also stand disposed of.

(Anita Malhotra)

AR-CUM-PS

(Signed Reportable judgment is placed on the file.)

(ANU BHALLA)

Court Master