
(2022) 05 UK CK 0074

In the Uttarakhand High Court

Case No : Criminal Writ Petition No. 18 Of 2022

Madhumani Tripathi

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 23-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 432, 433, 433A
Constitution Of India, 1950 — Article 161, 226

Citation : (2022) 05 UK CK 0074

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : D.K. Sharma, Maneesh Bisht, Anand Kumar Pandey, S.S. Adhikari, B.S. Thind

Final Decision : Disposed Of

Judgement

Alok Kumar Verma, J

1. The petitioner is a convict. She was sentenced to undergo imprisonment for life. Her criminal appeal (Criminal Appeal No.529 of 2007) was dismissed by this High Court on 16.07.2012.

2. After serving more than 18 years, including remission, in jail, the petitioner had moved a representation for granting the benefit under Section 432 of the Code of Criminal Procedure, 1973 before the Remission Committee, constituted by the Uttar Pradesh Government, which referred the matter to the State of Uttarakhand for its consideration. But, the State of Uttarakhand had not considered her matter. Therefore, she had filed a Writ Petition (WPCRL No.232 of 2021) under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus commanding the respondents to release the petitioner in terms of the provisions contained under Sections 432, 433 and 433A of the Code of Criminal Procedure, 1973.

3. The Co-ordinate Bench of this High Court disposed of the said WPCRL No.232

of 2021 on 05.05.2021 with the direction that in case, the writ petitioner moves an application seeking remission under the Cr.P.C., the "appropriate Committee", constituted by the State Government will consider and decide the same, strictly in accordance with law, as early as possible, preferably within 45 days from the date all necessary formalities are complete which are required to be made in this regard.

4. The State of Uttarakhand has issued a Government Order No.428/chl&4/2017-1(17)/ 2009 T.C. dated 21.06.2017 regarding to grant pardon, reprieves, respites or remissions of punishment, and, to suspend, remit or commute the sentence. The State of Uttarakhand has also issued a "Permanent Policy, 2021". After considering the representation of the petitioner dated 11.05.2021, filed under Article 161 of the Constitution of India and Section 433 of the Code of Criminal Procedure, 1973, it was found that the case of the petitioner does not fall under the said Government Order dated 21.06.2017 and under the Permanent Policy, 2021, the said representation of the petitioner has been rejected on 12.07.2021, hence, this writ petition.

5. The present petition has been filed with the following reliefs:-

(i) Issue a writ, order or direction, in the nature of mandamus commanding the respondents to release the petitioner subject to the satisfaction of this Court or any other court designated by it.

(ii) Issue a writ, order or direction, in the nature of certiorari quashing the impugned order dated 12.07.2021. (Annexure No.4).

(iii) Issue a writ, order or direction, which this Court may deem fit and proper under the circumstances of the case.

6. Heard Mr. D.K. Sharma, learned Senior Advocate assisted by Mr. Maneesh Bisht with Mr. Anand Kumar Pandey, learned counsel for the petitioner and Mr. S.S. Adhikari, learned Deputy Advocate General assisted by Mr. B.S. Thind, learned Brief Holder for the State.

7. The learned Senior Advocate appearing for the petitioner has relied upon a judgment dated 13.05.2022 of the Hon'ble Supreme Court, passed in Writ Petition (CRL.) NO(S).135 of 2022, "Radheshyam Bhagwandas Shah alias Lala Vakil vs. State of Gujarat & Another", and, requested that this Criminal Writ Petition may be disposed of in view of the aforesaid judgment of the Hon'ble Supreme Court, passed on 13.05.2022, with liberty to file a fresh petition before "the appropriate Government".

8. The learned counsel for the State has no objection.

9. This Criminal Writ Petition (No.18 of 2022) is disposed of accordingly. The petitioner is free to move a representation before the appropriate Government in accordance with law.