

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1280 OF 2015

YASIN BIBAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Petitioner : Smt. Monika Purnapatre
(Appointed Thr. Legal Aid)
APP for Respondents: Miss R P Gour

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: November 23, 2015

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PER COURT :-

1. The papers are received from Prison, wherein the petitioner seeks transfer to the open jail as per rules. Advocate Monika Purnapatre is appointed through legal aid. The learned counsel has filed proper petition.

2. Learned counsel submits that the petitioner, on completion of 1/4th of total imprisonment of five years, is entitled to be transferred to the open prison. Behaviour of the petitioner is good. There are no adverse allegations against the petitioner. As such, the respondents be directed to transfer the petitioner to the open jail.

3. Miss Gour, the learned APP submits that the petitioner now has completed his tenure of 1/4th sentence. The prisoner, if his behaviour is found to be good, so also, is physically and mentally fit and, if he has undergone 1/4th of his sentence excluding remission, he is entitled for being kept in the seniority list for

transferring him to open prison. Learned APP submits that considering that, petitioner would be kept in seniority list as per his turn. As per seniority list of 2013 the petitioner was not eligible. At that time he had not completed 1/4th period of his sentence. There are only 10 open jail prisons in the State and Prisoners have to be accommodated as per their seniority.

4. We have considered the submissions.

5. The provisions of Prison Rules are clear.

6. The learned APP has shown us the list. It appears that same is prepared as approved by the selection Committee and out of the said list of 1700 persons 650 accused persons are already accommodated.

7. Considering the above, it would not be possible to pass any order in favour of the present petitioner. Respondents shall consider the case of the petitioner as and when turn of the petitioner arises.

8. Writ Petition is disposed of.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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aaa/-