

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.740 of 2016

Suresh Maruti Shinde ...Petitioner
vs.
State of Maharashtra & Ors. ...Respondents

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Mr.Parijat Bharadwaj i/b Dr. Yug Mohit Chaudhary for the
petitioner.
Mrs. M. M. Deshmukh, APP for the State.

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**CORAM : NARESH H. PATIL &
PRAKASH DEU NAIK, JJ.**

JUNE 15, 2016.

P.C. :

. The petitioner is convicted for the offence punishable u/s.302, 323, 506(2) r/w 34 of the IPC and was sent to Kolhapur prison. A criminal case was lodged for assaulting a jailer by members of a gang. Investigation was carried out and all the gang members were transferred to the other jail in the interest of jail administration. The petitioner was one of them. By communication dated 18/9/2014 the petitioner was transferred from Kolhapur prison to Yerwada Central Jail. The petitioner filed an application for transferring him to Kolhapur Central prison. The said request came to be rejected by the jail administration vide order dated 9/10/2015.

2. Learned counsel appearing for the petitioner submitted that the petitioner is not involved in the offence of assaulting Mr.

Uttreshwar Gaikwad, the Jailor of Kolhapur Central jail. He further submitted that the petitioner is not keeping good health and requires medical treatment and constant support from his family and if he is kept in Kolhapur prison, he will be in a position to meet his family members. Learned counsel for the petitioner placed reliance on the judgment of **Shyokaran & Ors. vs. State of Raj & Ors., D.B. Civil Writ Petition No.9354/2006.**

3. Learned Prosecutor submits that the members of the concerned gang assaulted the jailor of Kolhapur prison. According to the jail administration, the petitioner was one of the members of the gang. Since 2014 the petitioner is in Yerwada Central Prison, Pune.

4. The petitioner has annexed medical certificate from which it can be gathered that he is under treatment. Pune is a place where good medical facilities are available. The next issue is regarding petitioner's desire to meet his family members. According to the jail rules even family members of the petitioner can be allowed to meet the petitioner. However, the petitioner still desires that he would be more comfortable in Kolhapur Central Prison.

5. We grant liberty to the petitioner to file fresh application on the health ground addressed to the concerned jail authority. If such application is received, we direct the concerned authority to pass appropriate orders after perusing the entire earlier record and after having personal interaction with the

petitioner.

6. It is clarified that we have not expressed any opinion as to whether the petitioner was member of a gang or was involved in the assault on the jailer.

7. The writ petition is disposed of.

(PRAKASH DEU NAIK, J.)

(NARESH H. PATIL,J.)