

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 645/2017

(SUSHIL RAMBHAROSE BAHURIYA (IN JAIL) VERSUS THE STATE OF MAHARASHTRA & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri R.D. Hajare, Appointed Counsel for the petitioner.
 Shri P.S. Tembhare, A.P.P. for the respondents.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : AUGUST 21, 2017.

By this criminal writ petition, the petitioner seeks a direction against the respondents to transfer him from Central Prison, Amravati to Open Prison, Wardha/Chandrapur.

Shri Tembhare, the learned Additional Public Prosecutor appearing for the respondents, states that the petitioner would not be entitled to seek his transfer to the open prison. It is stated that the provisions of Rule 4(2) (x) of the Maharashtra Open Prison Rules, 1971, a prisoner shall normally not be entitled to confinement in an open prison if he is convicted for the offence connected with narcotics. It is submitted that the petitioner is convicted for an offence punishable under Section 20(b)(ii) (A) of the Narcotic Drugs and Psychotropic Substances Act, 1985. It is submitted that the petitioner would not be entitled to be transferred to an open prison in view of the aforesaid rules.

On a reading of the provisions of the Maharashtra Open Prison Rules, 1971, as also the conviction warrant in respect of the petitioner, it appears that the prayer made by the petitioner cannot be granted. Since the petitioner is convicted for the offence punishable under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985, the petitioner would not be entitled to seek his transfer to open prison in view of Rule 4 of the Rules.

In the result, the writ petition fails and is dismissed with no order as to costs. The professional fees of the learned counsel for the petitioner are quantified at Rs.1,500/-.

Order accordingly.

JUDGE

JUDGE

APTE