

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 586 OF 2019

Abdullah s/o Ashfaq Shaikh,
Age major, Occ.,
R/o Shrirampur
District Ahmednagar
C.No.2315/2019, Yerwada Central
Prison, Pune

... Petitioner

VERSUS

1. The State of Maharashtra
through the Secretary,
Home Department,
Mantralaya, Mumbai – 400 032.
2. The Director General of Prison,
Pune.
3. The Superintendent,
Central Prison, Yerwada,
Pune

... Respondents

Shri. A. M. Inamdar, Advocate for the Petitioner (appointed)
Shri. A. S. Shinde, APP for the Respondents – State

**CORAM : T.V. NALAWADE AND
K.K. SONAWANE ,JJ.**

DATE : 26th JUNE, 2019.

ORAL JUDGMENT :- (Per: T.V. Nalawade, J.)

1. Rule. Rule made returnable forthwith. Heard finally, with consent of learned counsels appearing for parties.
2. In the petition, petitioner claims relief to transfer him from Yerwada Jail, Pune to any other Jail at Ahmednagar or Nashik. The Sessions Case of murder is pending against the petitioner in the Court of Sessions Judge, Shrirampur. The petitioner is behind bars since 22-04-2018.

3. The affidavit-in-reply and submission made by learned APP on behalf of respondents would show that Jail from Ahmednagar is over flooded and there is no more space for keeping the prisoners in said Jail. On last occasion, some record is produced to show the status of prisoners kept in the jail. The learned APP submits that only those prisoners, who are under trial and whose trials have begun, are kept in Ahmednagar Jail. In the present case, the case against the prisoner is pending in the Court of Shrirampur. There are sufficient Courts of Additional Sessions Judge. In view of increase of strength of Judges of Sessions Court, at present there is no huge pendency of Sessions Cases. The particulars given by respondent - authority did not show that seniority shown in respect of prisoners in the jail though numbers are mentioned. Further, most of the prisoners in the list from serial No. 29, 34 35 and 36 were released as per information supplied by the Superintendent of Jail. The particulars, which were asked were not given and seniority list is not there as per the date of keeping the prisoners in the jail.

4. In any case, when prisoner is under trial prisoner, such prisoner needs to be kept in nearest Jail, so that on every date fixed by the Court, it is easy for the authority concerned to produce him before the Court for trial. The contention of the prisoner shows that from 22-04-2018 till this date not on a single occasion, he was produced before the Court. It was also duty of the concerned Court to see that at-least on few occasions the prisoner is called in the Court. It appears that video conference facility was probably availed by the trial Court. It is also necessary to see the condition of the prisoners in the jail. When the accused facing trial is in Jail, he needs to be produced before the Court on priority basis.

5. In view of aforesaid facts, this Court holds that relief needs to be granted to the petitioner, however, one option can be given to respondents-authority, for keeping the petitioner in Nashik Jail, if there is no sufficient space in Ahmednagar Jail on condition that he is to produce on every date fixed for hearing at Shrirampur Court.

6. In the result, the petition is allowed. The direction is hereby given to respondent No. 2 that petitioner be transferred from Yerwada Jail, Pune to either Jail at Ahmednagar or Nashik and in future immediately on his transfer, he be produced before the Court of Sessions Judge, Shrirampur where proceeding is pending against him.

7. At this stage, a statement is made that there is sub-jail at Shrirampur and the petitioner can be kept in said sub-jail. Accordingly, keep the petitioner - prisoner in sub-jail, if space, is available at Sub-Jail Shrirampur and that will be in the interest of petitioner-accused. The Rule is made absolute in those terms.

8. Fees of Counsel appointed is quantified at Rs. 3000/- to be paid to to him through High Court Legal Services Authority, Sub-Committee, Aurangabad.

Sd/

[K.K. SONAWANE]
JUDGE

Sd/-

[T.V. NALAWADE]
JUDGE

MTK