

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL WRIT PETITION NO.83 OF 2019

(Ehtesham Qutubuddin Siddiqui ..vs.. State of Maharashtra, through Home Department, Mantralaya,
Mumbai and others)

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

Court's or Judge's orders

Shri A.K. Sukhdeve, Counsel (appointed) for petitioner,
Shri C.A. Lokhande, Addl.P.P. for the respondents.

CORAM : P.N. DESHMUKH AND

ROHIT B. DEO, JJ.

DATED : 05-03-2019

Heard learned Counsel for petitioner.

2. Petitioner has approached this Court by invoking inherent powers under Article 226 of the Constitution of India for issuing direction to respondent No.2 to lodge petitioner to Mumbai Central Prison contending that his confirmation appeal is pending before the Principal Seat of Bombay High Court at Bombay, and has submitted that for this purpose he had already made representation to respondent-authority on dated 29-10-2016 which came to be rejected by the impugned order on 29-12-2016. Perusal of impugned order would reveal that the request for transfer of petitioner from Nagpur Central Prison to Mumbai Central Prison is not considered favourably at that stage for administrative reason or for security purpose. Bare perusal of impugned order thus reveals that the request made has not been

considered in favour of petitioner, at that stage.

3. Admittedly, confirmation appeal of petitioner is also not stated to be listed for final hearing. As such we find no reason to issue any direction as prayed for, as we find if presence of petitioner is found necessary at the time of final hearing in confirmation appeal, necessary production warrant of petitioner can certainly be issued by said Court seeking presence of petitioner and in that event, he can be produced. Since the present petition is filed by petitioner requesting him to be transferred from Nagpur Central Prison to Mumbai Central Prison only with reference to pendency of his confirmation appeal as aforesaid, request made for the grounds mentioned herein above cannot be considered for two reasons firstly, impugned order would reveal rejection of request made by petitioner at that stage on security reason and secondly, if petitioner's presence is required during hearing in confirmation appeal, on issuing production warrant petitioner can be produced in the Court and then lodged in Bombay Central Jail.

4. For the reasons as aforesaid, writ petition is disposed of as dismissed. Fees to learned Counsel appointed for petitioner is quantified to Rs.2,000/- (Rupees Two Thousand).

JUDGE

JUDGE

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