

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1479 OF 2021

Rushikesh s/o Kailasrao Bedre ...Petitioner

versus

The State of Maharashtra and others ...Respondents

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Mr. Mahesh S. Deshpande advocate for the petitioner

Mr. S.J. Salgare, A.P.P. fr respondent Nos. 1 to 6

Mr. S.V. Deshmukh, advocate for respondent No.7

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**CORAM : C.V. BHADANG AND
BHARAT P. DESHPANDE, JJ.
DATED : 10 JUNE 2022**

PER COURT:-

By this petition under Article 226 of the Constitution of India, the petitioner is seeking quashing of letter dated 30 September 2021 (bearing outward No. 11414) issued by the 4th respondent, Superintendent of Prisons, Nashik Central Prison and the letter dated 20/21 October 2021 (bearing outward No. 5366) issued by 5th respondent i.e. Superintendent of Police, Beed thereby calling report for consideration of 14 years premature

release of respondent No.7, who is a convict undergoing sentence in Nashik Central Prison, Nashik.

2. We have heard learned counsel for the parties. Perused record.

3. Learned counsel for the petitioner submitted that the petitioner is son of deceased for whose murder respondent No.7 is undergoing the sentence. He submitted that respondent No.7 is an influential person and the Superintendent of Police, Beed, acting on his own accord has called for the report in order to consider 14 years premature release of the said prisoner. Learned counsel has placed strong reliance on the order dated 22 August 2011 passed by the Additional Superintendent, Nashik Road Central Prison, Nashik by which respondent No.7 was permanently debarred from seeking remission. It was on account of the fact that the respondent No.7 was found to have overstayed parole for 429 days. It is submitted that in the face of this order, it was not open for the respondent-authorities to consider 14 years premature release. It is on this ground, it is contended that the

authorities were not justified in calling for the report.

4. Learned A.P.P. has submitted that the petition is premature at this stage, as the concerned authorities have only called for the report for consideration of 14 years premature release and as yet no order has been passed. Learned A.P.P. has also taken exception to the locus of the petitioner as the son of deceased in raising such challenge. Learned A.P.P. submitted that at present he has no instructions whether the order dated 22 August 2011 has been approved by the Deputy Inspector General (D.I.G.) Prisons, Aurangabad which is further subject to evaluation by the Principal District and Sessions Judge, Nashik.

5. We have carefully considered the rival circumstances and the submissions. At this stage, even without going into the issue about the locus of the petitioner to raise any such challenge, we find that all that the concerned authorities have done is to call for the report for the purpose of consideration of 14 years premature release of respondent No.7. Learned A.P.P. has rightly pointed out that as yet there is no order passed about premature release. That apart,

perusal of the order dated 22 August 2011, on which strong reliance has been placed on behalf of the petitioner, shows that it is in the nature of proposal which is subject to approval by the D.I.G. (Prisons) Aurangabad and further evaluation by the Principal District and Sessions Judge, Nashik. This we are observing on the basis of recitals in the order itself. Thus, at this stage, the petitioner has not shown that the order has attained finality and has become effective. In that view of the matter, we decline to entertain the petition, which is accordingly dismissed.

6. Needless to mention that the petitioner can avail the legal remedy, if any, available in law subject to establishing the locus in challenging the final order of premature release.

BHARAT P. DESHPANDE, J.

C.V. BHADANG, J.

rlj/