

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

WRIT PETITION NO.697 OF 2020

Rajendra Sitaram Sonawane	...	Petitioner
Versus		
The State of Maharashtra		
And Others	...	Respondents

Mr. Hitesh Shah for the Petitioner.
Mr. K.V. Saste, APP for the Respondent-State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 28 MARCH, 2022

P. C. :

. Heard learned Counsel for the Petitioner.

2 A limited grievance is raised by the Petitioner and the challenge is raised to an Order passed by the Respondent-Authority, particularly, Respondent No.3 dated 8 November 2019. Few facts giving rise to the present Petitioner can be summarized as follows :-

The Petitioner was an accused facing RCC No.203 of 2012 in the Court of Jalgaon for the offence punishable under Sections 452, 323, 504, 506 read with 34 of IPC. The learned Chief Judicial Magistrate, Jalgaon by Judgement and Order dated 20 June 2014 was pleased to hold the Petitioner No.1 accused guilty for commission of the offences and accordingly punishment was awarded. The Petitioner was lodged in close prison, i.e. regular jail. The Petitioner by filing Writ Petition No.4810 of

2015 prayed for his transfer from regular jail to open jail. A Division Bench of this Court vide Order dated 23 March 2016 was pleased to direct the Respondents to take up issue of the Petitioner in the meeting which was scheduled in near future and further directed that the scheduled meeting shall be called within three week from the date of the Order. The Division Bench further directed that the decision shall be taken on its own merits in accordance with settled principles and guidelines laid in this behalf. With these directions, the Petition was disposed of. It is not in dispute that the prayer for transfer of the Petitioner was turned by the Competent Authority. It is an admitted position that decision of the Authority was not subjected to any challenge before the judicial forum including this Court. As such, the Petitioner is suffering his imprisonment in a regular prison. Then the Petitioner prayed for certain remissions. By a communication dated 8 November 2019, it is informed to the Petitioner that the Petitioner is suffering his imprisonment in a regular jail from 26 March 2013 to 29 April 2016. It is also stated in the communication that the convict as of right cannot avail benefit of remission and certain remissions sought for by the Petitioner. This benefit of remission was available only to those convicts suffering from imprisonment in an open prison. Reference is made to Rule 7 of Maharashtra Open Prison Rules, 1971. They by again referring to period 26 March 2013 to 29 April 2016, the prayer for remission is rejected.

3 As there is no challenge to the Rule and as the Petitioner has admitted factual position, namely, the Petitioner was suffering imprisonment for the period 26 March 2013 to 29 April 2016 in a regular jail, we are unable to find any fault in the Order impugned in the Petition. The Authorities have referred to necessary provisions. Considering all

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these aspects, in our opinion, the Petition is devoid of merits and deserves for dismissal. As such, the Petition is dismissed.

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(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)