

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4922 OF 2021

Mohammed Zubair Qashim Shaikh ...Petitioner.
Versus
The State of Maharashtra & Others. ..Respondents.

Mr. Mohammad M. Abdi, Advocate for the Petitioner.
Ms. M. M. Deshmukh, APP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.
Date : September 20, 2022.

P. C. :

1. Heard learned counsel appearing on behalf of the Petitioner. Perusal of petition shows that grievance of the petitioner is about his lodgment in Nashik Road Central Prison and under an erroneous impression, the prayer clause (a) was couched. Subsequently by way of an amendment, the prayer clause (c) is added to the petition. The prayer clause (c) reads thus :

“This Hon’ble Court be pleased to issue a writ of mandamus or any other writ, order or direction in the nature of mandamus restraining the Respondent No.2 from transferring the Petitioner out of the Nashik Central Prison, Nashik”

2. By communication dated 24th August 2022 to the office of

public prosecutor through the In-charge Superintendent of Nashik Road Central Prison, Nahsik, it is informed that the Petitioner - a convict, who is lodged in Nagpur Central Prison as Convict No.10783, was transferred from Nashik Road Central Prison to Nagpur Central Prison on permanent basis, and it is specifically stated in the order that this transfer was due to misbehavior of prisoner.

3. When the matter was listed before this Court on 25th August 2022, certain grievances were raised by the Petitioner; firstly, the Petitioner is subjected to harassment and is deprived of meeting his family members and; secondly, the prison authorities are carrying grudge against the Petitioner because the Petitioner had deposed against them in an enquiry initiated pursuant to the suicide of a prison inmate. On that date, learned counsel appearing on behalf of the Petitioner sought a leave to file an additional affidavit. The Division Bench permitted the Petitioner to file an additional affidavit on or before 5th September 2022. The Registry was directed to ensure that report of the Superintendent, Nashik Road Central Prison, Nashik be placed on record on the next date. In the additional affidavit filed on behalf of the Petitioner on 5th September 2022, the grievances of harassment and not permitting the Petitioner to meet his family members are re-iterated. In addition, it is stated in the additional affidavit that the Petitioner is deprived of the

weekly telephone facility.

4. It is submitted by learned APP that as the prison authorities found that the Petitioner was misbehaving in prison, the warnings were issued to the Petitioner. The Prison Superintendent made appropriate report to the superior authorities. Considering this material as well as considering the fact that in Nagpur Central Prison there are less number of prisoners (lesser crowd), the prison authorities transferred the prisoner from Nashik Road Central Prison to Nagpur Central Prison.

5. Learned APP submitted that affidavit is ready and the same would be filed in the Registry during the course of day. Learned APP to supply a copy of affidavit to the learned counsel appearing on behalf of the Petitioner.

6. Since now there is an order already passed and the affidavit indicates the reasons for transferring the Petitioner, in our opinion, there is no need to keep the present petition pending before this Court. The Respondent-State is directed to serve copy of the transfer order on the Petitioner within a week from today. Acknowledgment be obtained on the copy of the transfer order. In case the Petitioner is having any grievance against the said transfer order, the

Petitioner is at liberty to file fresh comprehensive petition challenging the said order. With these directions, writ petition is disposed of.

7. Writ Petition No. 55 of 2021 is detagged from this writ petition.

[N. R. Borkar, J.]

[Prasanna B. Varale, J.]