

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

CRIMINAL WRIT PETITION NO.437 OF 2021

(Amit Prakash Takbhavre Vs. The State of Maharashtra thr. its Secretary, Home
Department, Mumbai and another)

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

Court's or Judge's orders.

None for Petitioner.
Mr. V. A. Thakare, APP for Respondents 1 & 2/State.

CORAM: ROHIT B. DEO AND URMILA JOSHI-PHALKE, JJ.
DATE: 12th OCTOBER, 2022.

None appears on behalf of the petitioner.

2. However, with the assistance of the learned APP Mr. Thakare we have considered the grievance of the petitioner on merits.

3. The petitioner is convicted for offences punishable under sections 147, 148, 302 of Indian Penal Code (IPC) read with section 5 and 7 of the Arms Act, and is serving life sentence at the Gadchiroli Open Prison.

4. The conviction and sentence referred to *supra* is by virtue of judgment dated 23.10.2007 rendered by the learned Additional Sessions Judge, Chandrapur in Sessions Case 132/2005.

5. The petitioner was thereafter convicted for offence punishable under sections 186 and 224 read with section 34 of IPC and sentenced to suffer imprisonment for six months. The learned trial Judge directed that the

sentence shall run after the petitioner serves the sentence of imprisonment of life.

6. The short submission, as the pleadings reveal, is that in view of the provisions of sub-section (2) of section 427 of the Criminal Procedure Code (Code) since the petitioner was already undergoing a sentence for life, the subsequent sentence must run concurrently with the previous sentence. We find substance in the submission. Indeed, the plain reading of sub-section (2) of section 427 substantiates the said contention.

7. We, therefore, allow the petition in terms of prayer clause (a) which read thus:

(a) By suitable, Writ, order or direction, Respondent No. 1 and 2 be directed to run sentence of substantive imprisonments passed in Sessions Case 140/2012 decided by Additional Sessions Judge, Chandrapur shall run concurrently with the sentences passed in Sessions Case 132/2005 decided by Sessions Judge, Chandrapur and to this extent the impugned judgments be modified.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

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