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

CRIMINAL WRIT PETITION NO.850 OF 2021

Gajanan Babulal Battulwar–C-9971,
Aged about 42 years,
Presently lodged in Central Jail, Nagpur. **Petitioner.**

:: V E R S U S ::

1. Deputy Inspector General, Prison East,
Nagpur.

2. State of Maharashtra, Home Department, Nagpur. **Respondents.**
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Shri G.L.Agrawal, Counsel for the Petitioner (Appointed).
Mrs.Nandita Tripathi, Additional Public Prosecutor for Respondents/State.
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CORAM : V.M.DESHPANDE & G.A.SANAP, JJ.
DATE : JANUARY 11, 2022

ORAL JUDGMENT : (Per : V.M.Deshpande, J.)

1. Heard learned counsel Shri G.L.Agrawal, appointed through the High Court Legal Services Sub Committee at Nagpur, for the petitioner and learned Additional Public Prosecutor Mrs.Nandita Tripathi for respondents/State. **RULE**. Rule made returnable forthwith. Heard finally by consent of learned counsel for parties. Also, perused reply filed on behalf of the State authorities.

2. By this petition, the petitioner is praying for a relief that respondents shall grant him remission that he be sent to Open Prison at

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Gadchiroli. For the said relief, the petitioner has approached to this Court.

3. Undisputed facts before the Court show that the petitioner was convicted by judgment and order of conviction dated 8.11.2005 passed by learned Sessions Judge, Nagpur in Sessions Trial No.147/2004 for offence punishable under Section 302 of the Indian Penal Code and he was directed to suffer life imprisonment.

4. The petitioner was released on parole leave on 19.11.2014 for 30 days as per order passed by authority and the said parole leave was extended by a further period of 60 days. Though it was obligatory on his part to surrender himself, after his parole leave period was over, he overstayed. Resultantly, an offence was registered against him punishable under Section 224 of the Indian Penal Code and he was tried before learned Judicial Magistrate First Class, Nagpur. He participated in the said proceeding and ultimately learned Magistrate found guilt of the petitioner that he overstayed is duly proved by the authority and, therefore, he was convicted with fine Rs.1000/- and in default of payment of the fine amount he was directed to suffer further imprisonment for seven days as per order dated 1.9.2021.

5. Another crime is also pending against the petitioner in the

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Special Court of NDPS, Nagpur, vide Crime No.56/2018, i.e. Special Case No.4/2019 for offences punishable under Sections 20(B) and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 and bail is granted in his favour.

6. Since the petitioner has overstayed himself and for that an offence is registered and he is convicted, in our view, authorities were right in not considering the prayer made by the petitioner for sending him in Open Prison at Gadchiroli.

7. In this view of the matter, no case is made out. The criminal writ petition is dismissed and disposed of accordingly. Rule is discharged.

8. Fees payable to learned counsel Shri G.L.Agrawal, who is appointed through the High Court Legal Services Sub Committee at Nagpur to represent the petitioner, are quantified at Rs.2500/- towards his professional charges.

JUDGE

JUDGE

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