

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1125 OF 2022

Ashok Magan More

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....
Mr. R.A. Jaiswal, Advocate for petitioner
Mr. P.N. Kutti, A.P.P. for respondents
....

CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ
DATE : 31st AUGUST, 2023

PER COURT :

1. Heard.

2. The petitioner was convicted for the offence punishable under Section 307 of the Indian Penal Code ('I.P.C.') and therefore, sentenced to suffer imprisonment for two years with fine and default stipulation. He has been unsuccessful in appeal against conviction. It appears that he is resident of State of Gujarat. He thereafter committed an offence punishable under Section 302 of I.P.C. and is undergoing sentence of imprisonment for life in a prison in Gujarat. It is informed that the sentence of life imprisonment is about to come to end in near future. The jail authorities there have informed the petitioner that after his serving the sentence for the offence of murder, he

would be transferred to the prison at Nandurbar for serving out the sentence of imprisonment in respect of his conviction for the offence punishable under Section 307 of the I.P.C.

3. The petitioner claims to have been a juvenile in conflict with law when offence under Section 307 of the I.P.C. was committed. He has placed on record his school leaving certificate. The date of birth of the petitioner recorded therein is 24th February, 1976. The date of offence punishable under Section 307 of the I.P.C. is 28th January, 1994. The same suggests the petitioner, at the relevant time, was little over seventeen years of age. In view of definition of a juvenile in conflict with law as per Section 2(35) of Juvenile Justice (Care and Protection of Children) Act, 2015, the age of juvenility is upto eighteen years.

4. This Court, vide order dated 09th January, 2023, had directed the C.J.M., Nandurbar to make an enquiry and ascertain whether the petitioner was a juvenile on the date the offence was committed. Learned C.J.M., Nandurbar has given his report dated 27th March, 2023 stating that the petitioner was seventeen years and eleven months old on the date he committed the offence punishable under Section 307 of the I.P.C.

5. Since the petitioner's conviction for the offence punishable under Section 307 of the I.P.C. has attained finality and thereafter evidence surfaced

indicating he was a juvenile in conflict with law, we set aside the sentence of imprisonment of two years and fine of Rs. 1,000/-. Fine amount, if paid, be credited to State Government. Criminal writ petition stands disposed of accordingly.

(SANJAY A. DESHMUKH, J.)
SSD

(R.G. AVACHAT, J.)