



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.897 OF 2023

Omkar Nandkumar Jadhav

... Petitioner.

V/s.

State of Maharashtra

... Respondent.

Mr. Rahil Ahmed Siddiqui, (Appointed), Advocate for the Petitioner.

Mr. S.S. Hulke, APP for the Respondent-State.

CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.

DATE : 15th September, 2023.

ORDER : (Per Sharmila U. Deshmukh, J.):

1. Heard learned appointed Advocate for the Petitioner and learned APP for the Respondent-State.

2. The Petition is filed through Jail seeking transfer from Aurangabad Central Prison to Kolhapur Central Prison. A communication dated 7th January, 2023 received by this Court through Jail Superintendent of Aurangabad Central Prison was numbered by treating it as a Petition and an Advocate was appointed to represent the Petitioner through High Court Legal Aid Services Authority, Mumbai.

3. Learned APP has placed on record the report received from the Senior Jail Officer, Aurangabad Central Prison. The report states that, the Petitioner is an under-trial prisoner in CR No.244 of 2018,

registered with Pandharpur Police Station for offences punishable under Sections 302, 303, 120(B), 143, 147, 148, 149 of the Indian Penal Code, 1860, Sections 3, 4/25, 5/27 of the Arms Act, 1959; Section 135 of Maharashtra Police Act, 1951; and Sections 3(1)(ii),(2),(3) and (4) of the Maharashtra Control of Organised Crime Act, 1999. It is further stated that, on 6th January, 2020, some of the under-trial inmates assaulted a jail inmate-Nishikant Kamble, who succumbed to his injuries. Despite having no connection with the said incident, on 12th January, 2022, the Petitioner and other co-accused inmates sat on a hunger strike to pressurize the jail authorities.

4. Vide communication dated 15th January, 2022, the Superintendent of Kolhapur Central Prison sought permission from the learned Special Judge (MCOC Court) Pandharpur, to transfer the under-trial prisoners involved in the hunger strike, including the present Petitioner, from Kolhapur Central Prison to Nagpur Central Prison, Aurangabad Central Prison or Amravati Central Prison. By Order dated 17th January, 2022, the learned Special Judge directed that, the Special Court does not have any objection to transfer the under-trial prisoners to different prisons as thought fit on administrative grounds. Pursuant thereto, by an Order dated 27th February, 2022 of the Deputy Inspector General of Prison, Western Region, Yerwada, Pune the Petitioner was

transferred to Aurangabad Central Prison.

5. The Superintendent, Aurangabad Central Prison, has filed his Affidavit-in- reply dated 8th September, 2023 reiterating the facts stated in the report tendered by learned APP.

6. Learned appointed Advocate for the Petitioner submits that, the Petitioner's family consists of his aged parents and younger brother and there is no one in his family to look after his judicial work. He further submitted that, the Petitioner's family is resident of Sangli and the Aurangabad Central Prison is at a distance about 600 kms from Kolhapur, as a result of which his family members are unable to travel such a long distance.

7. Learned APP submits that, in the Affidavit-in-reply it is clearly stated that there is likelihood of further misbehavior/trouble to Jail Administration at the hands of the under-trial prisoners, if the Petitioner is transferred to Kolhapur Central Prison.

8. Considered the submissions and perused the documents.

9. The Petitioner is an under-trial prisoner and was lodged in Kolhapur Central Prison. The report tendered to this Court and the affidavit-in-reply of the Superintendent of Aurangabad Central Prison indicates that, by reason of incident of assault which occurred on 16th January, 2022, there was a death of prisoner-inmate and the Petitioner

and other co-accused sat on hunger strike at Kolhapur Central Prison. Resultantly for administrative/security reason, the Petitioner was transferred from Kolhapur Central Prison to Aurangabad Central Prison. The Affidavit-in-reply further states that on 27th August, 2023, co-accused of the Petitioner had assaulted the Senior Jailor and two other staff members.

10. The transfer of Petitioner and other inmates to Aurangabad Central Prison has taken place due to administrative/security reason after obtaining requisite permission and approval of the learned Special Judge, who is conducting the trial in connection with CR No.244 of 2018. The recent incident of 27th August, 2023 of assault on Senior Jailor and other two staff members by co-accused of the Petitioner indicates possibility of conflict taking place if the Petitioner is transferred back to Aurangabad Central Prison.

As the Petitioner has been transferred to Aurangabad Central Prison for cogent reasons, we do not find any reason to interfere with the Order of the learned Special Judge.

As such, we are not inclined to consider the request of the Petitioner for transfer from Aurangabad Central Prison to Kolhapur Central Prison.

11. Writ Petition fails and stands dismissed.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)