



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

CRIMINAL WRIT PETITION NO. 445 OF 2023

Firoz Chand Khan Pathan, Covict
No.C/9049, Aged 36 years, Occ. Nil,
Confined at Central Prison, Amravati.

... PETITIONER

VERSUS

1. Deputy Inspector General of Prison,
Eastern Region, Nagpur.
2. The Superintendent, Open Prison,
Morshi.
3. The Superintendent, Central Prison,
Amravati.

... RESPONDENTS

Shri Firdos Mirza, Advocate for the petitioner.
Ms. Tripathi, Addl.PP for the State.

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.
DATED : 26.10.2023.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith.

2. The petitioner has been convicted for the offence

punishable under Section 302 of the Indian Penal Code (IPC) vide judgment and order dated 30.03.2015 and he is serving the sentence. The petitioner was transferred from the Open Prison, Morshi to the Central Prison, Amravati which is impugned herein.

3. The respondent no.2 has filed a reply stating that the petitioner was caught red handed while accepting articles of food from outsider, which is in contravention of Rule 13(e) of the Maharashtra Prisons (Discipline) Rules, 1963. The respondent has also produced the copies of the statement showing that there was such a misconduct. According to the respondent, on account of said misconduct, on administrative ground and for security purpose, he has been transferred from Open Prison, Morshi to the Close Prison, Amravati. Chapter II of the Statutory Rules provides that a prisoner who has been transferred from Open Prison to Close Prison shall not be normally sent to Open Prison. The alleged act was committed in the month of April, 2023 and since 07.04.2023 the petitioner is in Close Prison.

4. We do not see any provision precluding to reconsider the petitioner's urge for re-transfer to the Open Prison nor such a provision is pointed out. Considering the reason for retransfer, we are not inclined to interfere in the process of retransfer. However, the

petitioner's case for transfer to Open Prison can be reconsidered after gap of one year from his transfer to Close Prison.

5. In view of the above, the petition stands disposed of.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

Trupti