

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 200 OF 2024

Nitin Ambadas Nerlikar	.. Petitioner
Versus	
State of Maharashtra	.. Respondent

...

Ms.Saroj N. Jadhav for the petitioner.
Dr.Ashvini A. Takalkar, APP for the State.
Suvarna Chorge, Jailor, Gr.II from Nashik Jail, present.

CORAM : NITIN W. SAMBRE &
MANJUSHA DESHPANDE, JJ
DATED : 30th SEPTEMBER, 2024

P.C:-

1 Petitioner was convicted for an offence punishable under Section 302 r/w Section 34 of the IPC and was sentenced to Life Imprisonment vide judgment and order dated 23/1/2014 in Sessions case No.29/2012 by Sessions Court, Nanded.

2 After undergoing the imprisonment for a considerable period, the petitioner was shifted to the Paithan Open prison.

3 After his temporary release during pandemic on 17/3/2021, it is alleged that the petitioner has committed an offence being Crime No.133/2021 punishable under Section 394, 504 r/w Section 34 of the IPC.

4 As a sequel of above, he was repatriated to the Close prison. The prayer is for directions to shift him to the Open prison as he is acquitted in the aforesaid offence being Crime No. 133/2021.

5 The learned APP submits that in view of the Prisons Manual, 1979, particularly Chapter II, Clause 4(ii)(k), a prisoner who has been transferred from an Open to a Close prison, cannot be re-shifted to Open prison and as such, it is claimed that the prayer be rejected.

6 It is borne out of the record that the petitioner is already acquitted in Crime No.133/2021. His transfer to Close Prison from Open Prison was because of registration of aforesaid offence, in which the Competent Court acquitted him.

7 In such an eventuality, the cause for the transfer of the petitioner to Close Prison in view of pendency of the trial in the aforesaid offence being Crime No.133/2021, no more exist as he stood acquitted in the said crime/trial.

8 Apart from above, as per clause no.(iii) of Rule 4 referred above, the Committee can reconsider the prayer as the petitioner is acquitted of the offence which was found to be basis for his repatriation to the Close prison.

9 We direct the Committee to reconsider the prayer of the petitioner in terms of clause 4(iii) of the aforesaid Manual in the light of his acquittal in Crime No. 133/2021.

Let the decision be taken within a period of six months and communicated to the petitioner.

Writ Petition stands allowed in the above terms.

(MANJUSHA DESHPANDE, J)

(NITIN W. SAMBRE, J.)