



{1}

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 CRIMINAL WRIT PETITION NO. 1311 OF 2025

Vitthal Rama Waghmare (C.No.4844)

... Petitioner

VERSUS

1. The State Of Maharashtra
Through its Secretary,
Home Department
Mantryalya Mumbai. - 32

2. The Superintendent,
Open Prison at Paithan,
District-Aurangabad

3. The District Judge-3 & Assistant Sessions
Judge. Aurangabad.

... Respondents

.....
Ms. Sharda P. Chate, Advocate for Petitioner
Mr. S.A. Gaikwad, APP for Respondents
.....

CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 23 SEPTEMBER, 2025

PER COURT :-

1. The present petition has been filed for following reliefs:

“B) Quash and set-aside the Judicial Appraisal order dated 29.05.2023 passed by the Respondent, No.3 i.e. The Learned District Judge-3 & Assistant Sessions, Judge Aurangabad,

C) This Hon’ble High court may be pleased to issue appropriate writ, order, or, directions to the Respondent No. 2 to call the fresh Judicial Appraisal from the Convicting, Court within stipulated period in the interest of Justice.

{2}

D) This Hon'ble High court may be pleased to issue appropriate writ, order, or, directions to the competent Convicting court (Adhoc District & Additional Sessions Court, Raigad) to undertake a fresh judicial appraisal in accordance with law in the interest of justice."

2. Heard the learned Advocate for the Petitioner. Learned APP waives service of notice for all respondents.

3. The learned Advocate appearing for the petitioner submits that the petitioner is undergoing his incarceration after he was convicted in Sessions Case No. 34 of 2008 on 26.08.2008 for offence punishable under section 302 of the Indian Penal Code by learned Ad-hoc Additional Sessions Judge, Rajgad. He has been sentenced to suffer rigorous imprisonment for life. His conviction has been confirmed by this Court. She stated that the petitioner was released on emergency COVID-19 parole leave on 24.11.2020 for 30 days, which got extended thereafter in view of the pandemic situation. The petitioner was not aware of the notification dated 04.05.2022 issued by the State directing all the prisoners to surrender within 15 days. He surrendered to the prison on 18.06.2022 i.e. after delay of about 178 days. The prison authorities had issued the show cause notice to him for punishment. He has replied the same. The Superintendent, Open Prison at Paithan had taken the judicial appraisal of learned District Judge-3 and Additional Sessions Judge, Aurangabad and by order dated 29.05 2023, the said

Court gave its opinion. According to the petitioner, it is not a convicting Court and judicial appraisal ought to have been obtained from the Sessions Judge at Raigad. With these limited prayers, this petition has been filed.

4. In this connection, we would observe that this point has already been addressed in our orders passed in Criminal Writ Petition No. 645 of 2015, decided on 08.08.2025; Criminal Writ Petition Nos. 765 of 2025 and 875 of 2025; and Criminal Writ Petition No. 905 of 2025, decided on 18.09.2025, which were based on the guidelines laid down in Criminal Writ Petition No. 284 of 2006 (*Sk. Jakir Sk. Babu v. State of Maharashtra*), decided on 15.09.2008 by the Nagpur Bench. Therefore, judicial appraisal of the convicting Court is necessary.

5. When in the present case the proposal for judicial appraisal has not been sent to the “Sessions Judge concerned”, we set aside the order dated 29.05.2023 and direct respondent No.2 to take the proposal for judicial appraisal from the “Sessions Judge concerned” i.e. the learned Adhoc District Judge and Additional Sessions Judge, Raigad, who had convicted the petitioner within a period of one month from today and thereafter, to pass the final order as contemplated under clause (4) in *Sk. Jakir Sk. Babu* (Supra).

{4}

6. With these directions, the writ petition stands disposed of.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

S P Rane