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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3393 OF 2025

Jaydeep S/o. Raju Chavan .

.. Petitioner

Versus

The State Of Maharashtra And Ors

.. Respondents

Mr. Rupesh A. Jaiswal, for the Petitioner.

Mr. J.P.Yagnik, Addl. PP for the Respondent-State.

Mr. Satish D. Mane, Jail Superintendent Grade-II of Kolhapur Jail
is present.

**CORAM: RAVINDRA V. GHUGE &
GAUTAM A. ANKHAD, JJ.**

DATE: 9th JULY, 2025

P. C.

1. The Petitioner has been convicted for having committed an offence punishable under Section 302 of the Indian Penal Code, by the Sessions Judge, Kolhapur vide Judgment dated 6th March 2021, delivered in Sessions Case No.120 of 2014. The sentence awarded to him is that of life imprisonment, till natural death. An Appeal preferred by the Petitioner is pending before the High Court.

2. He was an under-trial prisoner. He has spent 10 years and 6 months behind the bars, as in June 2025.

3. The contention of the Petitioner is that since he had completed more than 10 years of imprisonment, the Jail authorities relied on Rule 4 of the Maharashtra Open Prisons Rules, 1971 and referred his case to a Committee. He further points out that under Rule 4(i)(d), the Petitioner would fall in the category of “Sentenced to imprisonment for life of more than 14 years in the aggregate and who has undergone five years of the sentence excluding remission”. Including remission, the Petitioner has put in 12 years and 6 months.

4. The learned APP submits on the basis of the Rules that there is no embargo or exclusion for considering the case of any prisoner, who has been sentenced for life, until the remainder portion of his life.

5. The learned APP submits that Mr Satish Mane, from the Kolhapur Jail has come to this Court with a compilation of documents, but, not with the file. The Order passed on 3rd April 2024, is also not brought, to be shown to the Court. Shri. Mane, submits that he brought those papers that were given to him.

6. We have spent almost 30 minutes on this matter and we find that the learned APP is not assisted properly by the Superintendent of Kolhapur Jail - Mr Nagnath G. Sawant. We record our displeasure on his conduct. We direct that this Order expressing our displeasure be recorded in the Service book of Shri. Nagnath G. Sawant. The learned APP shall bring this Order to the notice of Director General of Prisons and shall report compliance to this Court on 25.08.2025.

7. The learned APP, on the basis of the record concedes that, apart from the reason that the Petitioner has been awarded life imprisonment to be suffered till the remainder part of his life, there is no other reason mentioned in the Order.

8. Leave to add prayer clause to the Petition, since the Petitioner had no occasion to make a prayer for challenging the said order, as copy of the order was not served on him. Addition of the prayer be carried out forthwith.

9. In the light of the above discussion, it is apparent that the 1971 Rules, do not expressly prohibit consideration of a case of a prisoner who may have been awarded a sentence of life imprisonment to be suffered for the

remainder portion of his life. In the absence of any specific provision under the Rules creating an embargo, the committee which passed the impugned Order dated 3rd April 2024, could not have merely concluded by expressing that because the Petitioner is to suffer life imprisonment for the remainder portion of his life, his case cannot be considered. When there is no exclusion of such candidate for being transferred to the open prison, the Committee has to apply its mind and pass a reasoned order. No such reasons appear in the Order, which is conceded by the learned APP on the basis of the record.

10. In view of the above **this Petition is partly allowed**. The impugned Order dated 3rd April 2024, is quashed and set aside. The case of the Petitioner is remitted to the Committee for re-consideration. We would expect a reasoned order to be passed by the Committee within a period of 60 days from today.

11. We make it clear that we have not expressed any view or opinion as regards the merits of the Petitioner's proposal.

[GAUTAM A. ANKHAD, J.]

[RAVINDRA V. GHUGE, J.]