



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

CRIMINAL WRIT PETITION NO.802 OF 2025

[Sanjay Pralhad Dhavase .vs. Additional Director General of Police and Inspector
General of Prison & Correctional Services, Pune and Others]

Office Notes, Office Memoranda
of Coram, Appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Ms R. A. Singh, Advocate for Petitioner.
Mr K. R. Lule, Addl. P. P. for Respondents/State.

CORAM: ANIL L. PANSARE AND RAJ D. WAKODE, JJ.

DATE : 11-12-2025.

. The petitioner has approached this Court with the following substantive prayers :

“(a) Quash and set aside the order dated 25.03.2025 passed by respondent No.1 i.e. Additional Director General of Police and Inspector General of Prison & Correctional Services, Pune;

(b) Direct the respondents to transfer the petitioner to an open prison;”

2. As could be seen, order dated 25th March, 2025 is said to have been passed by respondent No.1, Additional Director General of Police and Inspector General of Prison and Correctional Services, Pune. We, however, find that the said order has been passed by Special Inspector General of Police (Headquarters) Prisons and Correctional Services, Maharashtra State, Pune. Learned Additional Public Prosecutor seeks time to take instructions on this point. We grant time.

3. Accordingly, we have heard the matter and come across a disturbing facet. The petitioner had earlier approached this Court by filing Criminal Writ Petition No.292 of 2025, with a grievance that he had been transferred from the Open Prison to the Closed Prison on 31st January 2025, without following due

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procedure. That petition was disposed of on 10th September 2025, in following terms :

“1. On 06.08.2025, following order was passed:

“Heard.

2. It is informed that in terms of Rule 6 of the Maharashtra (Bombay Furlough and Parole) Rules, 2024, it is the Inspector General of Prison, who can pass the order of transfer of a prisoner from open prison to closed prison. The order impugned however, has been passed by the Special Inspector General of Police (Prisons), Central Division.

3. The learned A.P.P. seeks time to take instructions in the matter. At his request, list the matter for further consideration on 13.08.2025.”

2. Heard learned Counsel for petitioner for sometime. The petitioner has been transferred from Open Prison to Closed Prison on 31.01.2025, allegedly without following due procedure. Our attention is invited to Rule 6 of the Maharashtra Open Prison Rules 1971 which reads as under:

“Rule 6. Check of work and suitability of Prisoners transferred to open prison.

The case of each prisoner transferred to an open prison shall be put up before the Classification Committee once a month, which shall analyse the problems of the prisoner in detail. If it finds that a particular prisoner is found unfit for being kept in confinement in the open prison on the ground of indiscipline or unsatisfactory work or any other good and sufficient cause, he shall be transferred, after obtaining approval of the Inspector General of Prisons, to such prison as the Inspector General of Prisons may specify.”

3. As could seen, the prisoner could be transferred after obtaining approval of the Inspector General of Prisons. In the present case, such approval has been not obtained.

4. As such, learned APP made an attempt to justify the transfer however, approval of Inspector General of Prison mandated under Rule 6 of the Rules of 1971 having been not obtained, the order of transfer of petitioner from Open Prison to Closed Prison is unsustainable.

5. At this stage, we have noticed that the petitioner has not challenged the order transferring him from Open Prison to Closed Prison.

6. Learned Counsel for petitioner submits that there is no such order for transfer.

7. The attention of learned Counsel for petitioner is invited to page No.37 i.e. Annexure R-4-5 annexed with the reply filed by the respondent. The annexure refers to communication dated 22.03.2025 made by Superintendent of Prisons to Additional Inspector General of Prisons stating therein that in terms of order

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given on telephone by the Deputy Inspector, the petitioner has been temporarily transferred to Closed Prison. Thereafter, vide order dated 25.03.2025, the Special Inspector General (Headquarters, Prison) had declared petitioner as ineligible to remain in Open Prison on account of his activities of acceptance of eatable items and Rs.500/-. This order refers to the decision of the Committee to transfer the prisoner from Open Prison to Closed Prison. The decision was accordingly approved by Special Director General (Headquarters). The petitioner's Counsel is not willing to amend the petition.

8. Since, learned Counsel for petitioner has refused to challenge the order, we are left with no other alternative but to dismiss the petition.

9. At this stage, learned APP submits that corrective measures shall be taken in this regard. The statement is appreciated and accepted."

4. As could be seen, the argument was that in terms of Rule 6 of the Maharashtra [Bombay Furlough and Parole] Rules, 2024 (it should be Maharashtra Open Prison Rules, 1971), it is the Inspector General of Prison, who can pass the order of transfer of prisoner from Open Prison to Closed Prison. We were then informed that the order under question was passed by the Special Inspector General of Police (Prisons), Central Division. We had then quoted Rule 6 of the Maharashtra Open Prison Rules, 1971. We have also held that the order under question is unsustainable having been passed in breach of Rule 6 of the Maharashtra Open Prison Rules, 1971. The impediment for allowing the petition was, however, failure of the petitioner to challenge order dated 25th March, 2025, transferring the petitioner from Open Prison to Closed Prison. The order dated 25th March, 2025 was placed before us, not by the petitioner but by the respondents. Accordingly, the attention of petitioner's counsel was brought to the said order with the hope that she will amend the petition. The petitioner's counsel, however, was not willing to amend the petition, and therefore, in absence of challenge to the said order, we had dismissed the Criminal Writ

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Petition No.292 of 2025. Learned Additional Public Prosecutor then submitted before us that corrective measures will be taken. The said statement was appreciated and accepted.

5. The petitioner has now filed the petition challenging the order dated 25th March 2025. The petitioner, however, suppressed the order that we had passed in the previous petition. The blame for such suppression must be borne by the counsel representing the petitioner, since the counsel then and the counsel now is one and the same. When enquired, as to why this fact was suppressed, the counsel tendered an apology, which appears to us is nothing but lip service devoid of genuine remorse.

6. We are unable to accept this explanation, particularly given that this is not the first occasion on which we have observed the counsel's failure to disclose material facts transparently before this Court. Such conduct was previously noted but was overlooked in the hope of encouraging improvement; however, the lapses have persisted.

7. In light of the foregoing, and to uphold the integrity of the judicial process, we deem it necessary to send a clear and unequivocal message that any attempt to undermine the sanctity of the judicial system will not be tolerated. The judiciary discharges sacred functions of delivering justice, which can only be effectively achieved through the able assistance of the Members of the Bar. Any conduct undermining this process will be addressed with the requisite firmness to preserve the dignity and integrity of the judicial system.

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8. We, accordingly, remove Ms. Ratna A. Singh, Advocate from appearing for the petitioner and appoint Mr. Suyog Deshpande, Advocate from the Legal Aid Panel to represent the petitioner. The Secretary, High Court Legal Services Sub-Committee, Nagpur, shall supply case papers to him for assisting the Court.

9. We may note here that we had in our earlier order held that the order under challenge is unsustainable, upon which the learned A.P.P. made a statement that corrective measures would be taken. Thus, what was expected is that the petitioner would be transferred to the Open Prison and only after following due process, he shall be shifted to the Closed Prison, if necessary.

10. In this regard, we have gone through the explanation dated 16.02.2025 put forth by the petitioner to the Jail Authority. It indicates that the amount of Rs. 500/- found in his possession was earned from the job assigned to him by the Jail Authority of pressing the clothes of customers. As far as the recovery of boxes of biryani and sweets is concerned, it is his case that two officers, namely Shri. Shrikant Thakre and Shri. Gaikwad, came to him, planted those boxes and obtained his signature. Thus, the petitioner has set up a case that he has been falsely implicated in the matter.

11. Learned A.P.P., at this stage, invited our attention to the photographs annexed with the reply showing the presence of four persons, one of them is in police uniform and two others in red T-shirt. The petitioner appears to be standing in the center. Another photograph shows a currency note of Rs. 500/-. We are surprised to see that a photographer was available inside the

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prison to take such photographs. This is so because there is no explanation in the reply as to how these photographs were obtained.

12. We are, therefore, of the *prima facie* view that the photographs is a document created to substantiate the case against the petitioner by the officers responsible for planting the eatables with the petitioner, who otherwise carries a good reputation.

13. We would, therefore, like to find out the truth. Accordingly, we direct Deputy Inspector General of Prisons, Eastern Region, Nagpur, (Vigilance Cell), to enquire into the matter and file a report within four weeks from today.

14. List in the week commencing from 12th January, 2026.

15. In the meantime and pending enquiry, the petitioner shall be transferred to Open Prison. The respondent No.1 may consider to transfer Shri. Shrikant Thakre and Shri. Gaikwad to other office/s so as to ensure transparent enquiry.

(JUDGE)

(JUDGE)

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