



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5741 OF 2018

WITH

INTERIM APPLICATION NO.781 OF 2023

Mirza Himayat Inayat Baig,
C/10785, Anda Barrack,
Nashik Road Central Prison, NashikPetitioner

Vs.

The State of Maharashtra,
Through The Superintendent,
Nashik Road Central Prison, NashikRespondent

Mr. Mujahid Ansari, for the Petitioner.
Mrs. P. P. Shinde, APP, for Respondent-State.
Ms. Suvarna Chorge, Jailor Grade-II, Nashik Jail is present.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

RESERVED ON : 5th FEBRUARY 2025.

PRONOUNCED ON : 18th FEBRUARY 2025

JUDGMENT :- (Per Dr. Neela Gokhale, J.)

1. This is a letter Petition sent by the Petitioner through Nashik Road Central Prison seeking direction to the Superintendent of the Nashik Road Central Prison to lodge the Petitioner in the General Barrack with other prisoners and to provide him an appropriate job/work in the prison.

2. The Petitioner is convicted by the Sessions Court, Pune by judgment and order dated 18th April 2013 in Sessions Case No.771 of 2010 (German Bakery Bomb Blast Case) for the offences punishable under Section 474 of Indian Penal Code and Section 5(d) of the Terrorists and Disruptive Activities (Prevention) Act, 1987 ('TADA'). He was sentenced to death by the trial Court against which he preferred an Appeal and the High Court converted his sentence to that of life imprisonment. Thus, presently, he is lodged at Nashik Road Central Prison.

3. The Petitioner is also involved in another Sessions Case No.21 of 2010 registered at the Anti-Terrorist Squad, Mumbai for offences under Sections 10, 13, 15, 16, 18 (A) (B) and 20 of the Unlawful Activities (Prevention) Act, 1967 along with Sections 120-B, 465, 467, 468, 471 of Indian Penal Code read with Sections 4,5 and 6 of the Explosive Act,.1884.

4. Mr. Mujahid S. Ansari, learned counsel was appointed to represent the Petitioner by the High Court Legal Services Committee, Mumbai. Accordingly, he represents the Petitioner and Ms. Prajakta Shinde, learned APP represents the State.

5. Mr. Ansari submits that the High Court has acquitted the Petitioner from the charges of conspiracy and he is convicted only for possession of explosive material. The Petitioner has suffered fourteen years of incarceration as on date. He is lodged in a cell commonly called as 'Anda Cell'. It is his submission that the Petitioner is kept in solitary confinement and is mentally disturbed because of the cell. Mr. Ansari also submits that there is no security risk in the general barracks and as such, no harm will be caused, if he is shifted to the General Barracks. He also contends that the Petitioner belongs to an economically marginalized family and he should be provided a job in the prison, so that he can utilize his time and also contribute towards the livelihood of his family.

6. Ms. Shinde, per contra, has drawn our attention to the Affidavits of the Superintendent of Nashik Road Central Prison dated 22nd December 2022 as well as 18th July 2024. It is averred in the Affidavits that the Petitioner is not detained in solitary confinement. He is lodged in a High Security Wing of the prison known as the 'Anda Cell', which is like any other barrack. The name 'Anda Cell' is only because of the circular shape of the barracks. There is sufficient provision in the barrack for light and air. There is a passage and a

long corridor to facilitate the prisoner to walk and exercise. There are other prisoners also in the same barrack in other cells, who are able to interact with each other. There is provision for television and FM Radio for entertainment. There is also a facility of smart card phone inside the cell which are utilized by the prisoners to call their family members and Advocates. Court related matters can be checked at the Judicial Office of the prison. Daily newspapers and books are provided to the prisoners. The prisoners are also allowed to go out of the cell for *E-mulakat* and attend the Court through video conferencing.

7. Ms. Shinde, points to a Circular dated 21st September 2012 issued by the Additional Director General of Police and Inspector General of Prison, Maharashtra State, Pune, which regulates the detention of the prisoners in particular cells. Thus, Ms. Shinde submits that there is no violation of any right, constitutional or human, of that of the Petitioner and his prayer is misconceived. She urges us to dismiss the Petition.

8. Heard the parties and perused the record.

9. The Circular dated 21st September 2012 clearly categorizes

prisoners to be lodged in specific cells/barracks. The Circular mandates that the prisoners of high security risk are to be lodged in a cell in the High Security barrack. Furthermore, we find from the Affidavit that there have been incidents in the prison, of scuffles and attacks. It is for the Prison Authority to ascertain the threat and security perception in respect of the detainees in the prison. Since, we are satisfied that the Petitioner is not in solitary confinement, as fairly admitted even by Mr. Ansari, and also on the basis of the averments in the Affidavits of the Jail Superintendent, we see no reason to direct the Jail Authorities to transfer the Petitioner in a General Barrack with other prisoners. At this stage, there is no concern about any psychological trauma on account of any indefinite solitary confinement, as originally alleged by the Petitioner in his letter Petition.

10. Insofar as the Petitioner's prayer in respect of work to be assigned to him is concerned, the Petitioner may be assigned work/job in consonance with the Prison Rules and Regulations for the time being in force.

11. In view of the aforesaid discussion, we are inclined to

reject the letter Petition in the aforesaid terms. Accordingly, the Petition is dismissed.

12. Before we part, we must place on record our appreciation of the services rendered by Mr. Mujahid Ansari, the counsel appointed by the Legal Services Committee to represent the Petitioner and commend him for his valuable assistance. Needless to state, that Mr. Ansari shall be remunerated with the prescribed honorarium by the Legal Services Committee, as per Rules.

13. In view of dismissal of Writ Petition, Interim Application, if any, pending therein shall also stand disposed off.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)