
(2026) 08 BOM CK 3121

In the Bombay High Court, Nagpur Bench

Case No : CRIMINAL WRIT PETITION NO.531 OF 2026

Rupesh Sadashiv Manekar

APPELLANT

Vs

The Superintendent, Nagpur Central Prison, Nagpur & Anr.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

The Maharashtra Prison Manual, 1979-Chapter-II, Rule 4(ii)(k), Section 48(a)
Maharashtra Open Prisons Rules 1971 — Rule 4(ii)(d)(n), 4(ii), 4(ii)(h)
IPC — Section 302, 224

Citation : (2026) 08 BOM CK 3121

Hon'ble Judges : Urmila Joshi-Phalke, J;Nivedita P. Mehta, J

Bench : Division Bench

Advocate : Shri Y.Maheshwari, Shri V.A.Thakare

Final Decision : Dismissed

Judgement

1. Heard learned counsel Shri Y.Maheshwari for the petitioner and learned Additional Public Prosecutor Shri V.A.Thakare for respondents/State. Rule. Rule returnable forthwith. Heard finally by consent.

2. By this petition, the petitioner prays for quashing and setting aside order dated 23.2.2023 passed by the Open Prison Selection Committee (the said Selection Committee) by which he was transferred from Open Prison to Close Prison as per The Maharashtra Prison Manual, 1979, Chapter-II, Open Prisons, Rule 4(ii)(d)(n) of the Maharashtra Open Prisons Rules 1971.

3. The petitioner is convicted by learned Ad-hoc District Judge and Additional Sessions Judge, Nagpur under Section 302 of the IPC in Sessions Case No.590/2011 by judgment and order dated 8.4.2013 and sentenced to suffer life imprisonment. He is undergoing the said sentence in Nagpur Central Prison, Nagpur. The said Selection Committee, in the year 2018, selected him for transferring in Open Prison as per seniority and by order dated 28.8.2019, he was selected and transferred to The Nagpur Open Prison w.e.f.1.9.2019. Thereafter, he was released on parole leave on 5.11.2020 during Covid-2019

period. Thereafter, his parole leave was extended till 29.5.2022 in view of the Government Circular dated 4.5.2022. He was required to be surrendered on or before 30.5.2022. However, he failed to surrender on due date and, thereafter, he came to be arrested. Due to his delay in surrender, Crime No.255/2022, under Section 224 of the IPC, came to be registered with the Pardi Police Station, Nagpur. He further came to be arrested on 29.9.2022 and was brought back to jail on 30.9.2022. In the said crime, learned JMFC, Court No.3, Nagpur convicted him for seven days simple imprisonment vide order dated 29.3.2023. Thereafter, he again made a request for keeping him in Open Prison which was rejected on ground that there is an apprehension of fleeing away as well as another case was pending against him. In view of that, he was declared to be unfit in view of Rule 4(ii)(k) of The Maharashtra Prison Manual, 1979, Chapter-II, Open Prisons Rules.

4. Learned counsel for the petitioner submitted that now pending case already decided and the petitioner is already punished and at present, there is no case pending against the petitioner. He further further submitted that the Authority has not taken into consideration the last three years conduct while considering his application. He submitted that reasons are not assigned while passing the order. As far as his conduct regarding belated surrender before the Authority is concerned, he is already punished for the same and, therefore, now that ground is not available to respondents/State to reject his prayer transferring him in the Open Prison. In view of that, he submitted that the petition deserves to be allowed.

5. Per contra, learned APP for respondents/State submitted that the petitioner was not recommended for Open Prison as he was released on parole leave and he ought to have surrendered on 30.5.2022. However, as he has not surrendered, he was arrested on 29.9.2022. In view of that, he was declared as unfit person for the Open Prison. He further submitted that risk of he fleeing away is always there considering his past conduct and, therefore, his representation is rightly rejected by the Authority and no interference is called for.

6. After hearing both sides and perusing the entire record, it reveals that the petitioner is convicted by learned Ad-hoc District Judge and Additional Sessions Judge, Nagpur under Section 302 of the IPC in Sessions Case No.590/2011 by judgment and order dated 8.4.2013 and sentenced to suffer life imprisonment. The said Selection Committee in 2018 selected the petitioner for transferring in Open Prison as per seniority and accordingly by order 28.8.2019 he was selected and transferred to the Nagpur Open Prison w.e.f.1.9.2019. Due to covid pandemic situation, on 5.11.2020, his parole leave was extended till 29.5.2022 and, therefore, he was expected to surrender on or before 30.5.2022. However, he failed to surrender and, therefore, Crime No.255/2022 under Section 224 of the IPC came to be registered against him at Pardi Police Station, Nagpur. Admittedly, he has not surrendered before the Authority after registration of the crime also and he came to be arrested on 29.9.2022 and was brought back to the jail on 30.9.2022.

7. Undisputedly, Crime No.255/2022 was registered against the petitioner for his belated surrender before the Authority. A criminal case was registered and it was decided by learned JMFC wherein he was convicted to undergo simple imprisonment for seven days.

8. In the background of the above factual aspects, we have to consider provisions of The Maharashtra Prison Manual, 1979, Chapter-II and Open Prisons Rules of the Maharashtra Open Prisons Rules 1971.

“Rule 4(ii) states that, following prisoners shall not normally be sent for confinement in an open prisons:

Rule 4 (ii)(h), prisoners having any case pending in a court.

Rule 4(ii)(h), escapees and escape risks.”

9. In the above circumstances, the petitioner has already committed prison offence under Section 48(a) of the Maharashtra Prison Manual and as such his proposal was put up before the said Selection Committee. The said Selection Committee has not recommended him as a fit person to be kept in Open Prison. Moreover, the said Selection Committee has also not recommended him for Open Prison because the second case is pending against him. Now, that case is already decided. However, the risk regarding fleeing away was considered by the Authority. Considering his past conduct, the said apprehension is not baseless and, therefore, the observation of the said Selection Committee, that he is unfit person to be kept in Open Prison, appears to be on the basis of the sound reasoning.

10. In this view of the matter, we do not find that any illegality is committed by the Authority by keeping the petitioner in the Close Prison and rejecting his prayer to keep him in Open Prison.

11. Taking into consideration, that the petitioner was absconding during Corona Parole Leave and the offence was already registered against him, though he was punished, risk of fleeing away is always there and apprehension is on the basis of sound reasoning and, therefore, the petition being devoid of merits is liable to be dismissed and the same is dismissed.

12. Fees of learned counsel appointed for the petitioner be quantified and the same be paid to him as per Rules.

Rule stands discharged.