



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION (ST) NO. 19724 OF 2024

The State of Maharashtra

.. Applicant

Versus

Satish Mahadevrao Uke and Anr.

.. Respondents

WITH

INTERIM APPLICATION NO. 4383 OF 2024

IN

CRIMINAL REVISION APPLICATION (ST) NO. 19724 OF 2024

Satish Mahadevrao Uke

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Hiten N. Venegaonkar, Chief PP a/w. Ms. Sangita E. Phad, APP for the Applicant – State.
- Mr. Satish M. Uke, Respondent No.1 – in-person through VC.
- Ms. Manisha Jagtap a/w. Ms. Swara Vichare, Advocates for Respondent No.2 – Enforcement Directorate.

.....

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 13, 2024.

P.C.:

1. Heard Mr. Venegaonkar, learned Chief PP a/w. Ms. Phad, learned APP for Applicant – State and Mr. Satish Uke, Respondent in-person on VC through jail.

2. Present Criminal Revision Application (for short “CRA”) takes exception to the twin orders passed by the learned Trial Court below Exhibit “103” dated 15.06.2024 and Exhibit “112” in PMLA

Special Case No.588 of 2022 dated 10.07.2024 which are appended at page No.37 (Exhibit “I”) and page No.49 (Exhibit “L”) of the CRA.

3. Mr. Venegaonkar while drawing my attention to the facts of the present case and resultant passing of the aforesaid twin orders would submit that Respondent No.1 initially was lodged in Mumbai Central Prison (Arthur Road Jail) during his incarceration. He would submit that since the said jail was overcrowded, the Jailer, Group-II, Mumbai Central Prison after giving intimation of transfer to the Respondent No.1 and more specifically in view of jail security reason qua Respondent No.1 transferred him from Mumbai Central Prison to Talaja Central Jail, Navi Mumbai. This transfer was effected on 06.01.2023. Respondent No.1 filed Application below Exhibit “103” before the designated Special Court (Trial Court) seeking his transfer back to Mumbai Central Prison (Arthur Road Jail). In that Application, Superintendent of Talaja Central Jail filed his say vide Exhibit “113-A” and submitted that he had no objection to re-transfer the Respondent No.1 as prayed for. That Application is allowed by order dated 15.06.2024. Review of that order is dismissed by order dated 10.07.2024. Hence, the present CRA.

4. Today, after hearing Mr. Venegaonkar, learned PP and Mr. Uke, Respondent No.1 in-person through VC from jail, Mr. Uke informs the Court that the twin orders passed by the learned Trial Court be

implemented. However, in the same breath he has also drawn my attention to Interim Application No.4383 of 2024 which is annexed to the present CRA as the nomenclature on that Application states that it is filed in this CRA. While drawing my attention to the reliefs in the Interim Application, he would submit that he has filed an urgent request letter through Jail which is dated 05.10.2024 for seeking certain reliefs. He would submit that certain directions are required to be given to the Jail Authority for his physical presence before the Court on the date of every hearing and for the use of library and also orally sought directions to permit him to use internet facility.

5. I have impressed upon Mr. Uke as also Mr. Venegaonkar, learned PP that in so far as my present jurisdiction and roster for hearing Criminal Revision Application is concerned, I can undoubtedly consider the Revision Application with respect to the twin orders passed by the learned Trial Court, but whether I will have the jurisdiction to hear, consider and pass orders in the Application received through jail is not clear neither there is any order for clubbing the Interim Application No.4383 of 2024 with the present CRA. From my previous Criminal Court assignments, it is seen that such Applications which are received directly from jail are required to be registered by the Registry as Writ Petitions (Criminal) and are required to be placed before the appropriate Division Bench. The hand written Application expressing various grievances of Respondent No.1 which is

the subject matter of Interim Application No.4383 of 2024 is addressed to the Registrar of this Court. Hence, concerned Registrar (Judicial) is directed to take cognizance of the same and place the same before the appropriate Court. If this Court is required to hear this Application, then concerned Registrar (Judicial) shall take appropriate steps to list the same before me after following the due procedure for clubbing in accordance with law, otherwise if I pass any order, it will be without jurisdiction and a nullity.

6. Coming back to the twin impugned orders, Mr. Uke, Respondent No.1 in-person would submit that the decision of this Court in the case of *Mr. Saeed Sohail Sheikh s/o Mr. Sohail Mehmood Sheikh Vs. The State of Maharashtra*¹ be considered by this Court. He would draw my attention to paragraph Nos.19 and 20 which have been reproduced by the learned Trial Court in the second order passed below Exhibit “112” dated 10.07.2024 which is impugned in the present CRA to contend that it is well settled that the person who is facing trial in a Court is in the custody of the Court and therefore he is to be lodged at a place where the Court wants him to be lodged. There is no quarrel about this proposition as argued by Mr. Uke, but it could not be at the cost of security of the person who is facing trial. It cannot be an absolute propositions. There is no doubt that the Court has to decide, but only after considering all facts which are relevant. That is

1 Cri. WP No.1377 of 2008, decided on 21.07.2009.

precisely the reason which is argued by Mr. Venegaonkar. Infact, it is seen that originally when Respondent No.1 was shifted from Mumbai Central Prison (Arthur Road Jail) to Taloja Central Jail in Navi Mumbai, intimation to that effect was given by the Jail Superintendent, Mumbai Central Prison to Respondent No.1 vide Exhibit "64A". What is crucial is to ensure the security and safety of the person who is facing trial. Respondent No.1 in the present case infact conducting his own case. That apart, there has to be adequacy of space wherein the person is lodged. There is one of the principal reason to challenge the twin orders.

7. Though in the twin orders cognizance has undoubtedly been taken by the learned Trial Court about the difficulty expressed by the learned prosecutor, the admitted fact in the present case is the admitted fact that that the Mumbai Central Prison (Arthur Road Jail) is overcrowded. This is fortified by the fact that apart from the aforesaid reason, security and safety of the person facing trial, in this case the Respondent would be of paramount consideration. Report dated 12.12.2024 has been placed before me by the Superintendent of Mumbai Central Prison (Arthur Road Jail) addressed to the Chief Government Pleader. The said report is taken on record and marked "X" for identification. Perusal of the said report reveals that the capacity of Mumbai Central Prison (Arthur Road Jail) is virtually overcrowded beyond its sanctioned capacity by more than 5 – 6

times. To give an example and as stated in that report, in every barrack where the capacity and sanctioned strength is to house 50 inmates, as on date, the said Mumbai Central Prison houses anywhere between 200 – 220 inmates. This is confirmed by the fact that several inmates which are housed in Mumbai Central Prison have also lodged complainants before this Court with respect to inadequacy of space for movement, sleeping and for other chores. That apart, on the issue of safety and security, Mumbai Central Prison also houses inmates who are accused in bomb blast trials, terrorists undergoing trials and several MCOC undertrials belonging to various gangs as also naxalites undertrials. That puts a heavy burden on the Mumbai Central Prison with its limited resources to provide security for all undertrials. As opposed to this Respondent No.1 in the present case has addressed me that he needs this Court to give directions to the Jail Authorities to produce him on every date of hearing as also allow him to use library and internet.

8. As stated hereinabove, Registry shall take immediate steps and list his Interim Application before the appropriate Court. However, in so far as the present CRA is concerned, in view of the aforesaid reasons which have been taken cognizance of by the learned Trial Court Judge in both the twin orders, it is seen that the same has not been translated into an affirmative order. The reasons deserve consideration in the interest of safety and security of the Respondent.

9. In that view of the matter, since Respondent No.1 has opposed the present Application, on his request, I am inclined to permit Respondent No.1 to file his Affidavit-in-Reply to the Revision Application which shall be filed within a period of one week from today. Mr. Uke, Respondent No.1 in-person can prepare his Affidavit-in-Reply and give it to the Superintendent of Jail of Talaja Central Jail where he is presently housed. Superintendent of Jail of Talaja Central Jail shall forward the same to this Court and ensure that copy of the same is placed before this Court on the next adjourned date i.e. on 20.12.2024.

10. On the next adjourned date, after considering the Affidavit-in-Reply, appropriate order for disposal of the present CRA shall be passed by the Court.

11. Copy of the report dated 12.12.2024 be supplied to Mr. Uke through the Superintendent of Jail as expeditiously as possible by the State.

12. In the meantime, the twin orders passed below Exhibit "103" and Exhibit "112" shall stand stayed until the present CRA is decided by the Court.

13. Stand over to 20th December 2024.

[MILIND N. JADHAV, J.]

Ajay