

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**227****CRM-M No.44786 of 2023****Date of Decision : 31.10.2023**

Nirminderjeet Singh

....Petitioner

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satnam Singh Gill, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab for respondent No.1.

Mr. Sunny K. Singla, Advocate for respondent No.2.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.161 dated 16.12.2022 under Sections 376(2)(n) and 506 of the Indian Penal Code, 1860 (Section 6 of the Protection of Children from Sexual Offences Act, 2012 was added later on) registered at Police Station Sadar Ahmedgarh, District Sangrur.

2. After arguing for some time, learned counsel for the petitioner seeks permission to withdraw the present petition at this stage. Permitted to do so.

3. Dismissed as withdrawn. Pending applications, if any, also stand disposed off.

4. Though the main case has been withdrawn by the counsel for the accused-petitioner, this Court is inclined to remain seized of the matter

as the facts which have come on the record of the present case disclose a sordid state of affairs prevailing in the District Jail, Sangrur.

5. On 09.10.2023 the counsel for the complainant-respondent No.2 had shown a video sent by the accused-petitioner from the jail to the victim wherein music could be heard and two or three boys could be seen sitting in a room where there was also a TV. The boys were seen eating and drinking in the said video which was purportedly sent from mobile phone No.82649-69626 from the jail where the accused-petitioner is lodged. Counsel for the complainant-respondent No.2 also brought to the notice of the Court that the accused-petitioner had regularly been sending messages to the complainant-respondent No.2 from the said number. The Superintendent, District Jail, Sangrur was called upon to file an affidavit explaining as to how the accused-petitioner had access to a mobile phone and how the above facilities were being provided to the jail inmates. The call records and tower location of phone no.82649-69626 were also sought.

6. An affidavit was thereafter filed by the Superintendent, District Jail, Sangrur which was found to be unsatisfactory. The Court directed that an affidavit be filed by the DGP (Prisons), Punjab on the following points :

- i) Whether any witness or any other person connected with the present FIR was contacted by the present petitioner using the mobile phone which was admittedly recovered from him;
- ii) Number of phones recovered/confiscated since July 2023 i.e after the present Jail Superintendent was posted there, and the make of the phones;

- iii) Who monitors the CCTV Cameras when that one person needs to use the facilities or needs to step out for any other reason;
- iv) The distance between the 7 watch towers which are on the periphery of the jail premises;
- v) Number of Police personnel who are on duty at night monitoring the activities in the barracks; vi). What are the provisions for serving meals to the inmates as from the video it can be seen that the petitioner is consuming his meal with loud music playing in the background in the barrack which also has a pink sheet hanging at the back;
- vii) What action has been taken against the concerned official(s) for dereliction of duty;
- viii) Why have the additional CCTV Cameras not been installed as requested so as to cover the entire periphery of the Jail;
- ix) How many times have drugs and alcohol been recovered from the inmates since July 2023;
- x) How do the inmates go near the boundary walls to recover the articles which are, as stated by the Jail Superintendent, thrown over the Jail boundary wall, unnoticed by the guards who are posted there;
- xi) How are the guards posted at the watch towers oblivious to the articles being thrown over the

boundary wall and successfully being retrieved by the inmates;

xii) How and when are the inmates rotated amongst the cells which have TV's and the ones without such a provision as has been stated and moreover when was the present petitioner moved to such a cell along with the other inmates as seen in the video;

xiii) Whether all inmates are regularly frisked after every Court hearing and after the physical mulakats;

xiv) How often are the inmates and their cells regularly checked by the prison authorities to check for such illicit material(s) and items not permitted in a jail.

7. An affidavit dated 19.10.2023 has been filed by the Additional Director General of Police (Prisons), Punjab. Along with the said affidavit the call records of phone no.82649-69626 have been appended. These call records run in to several hundred pages and are for the period 12.01.2023 to 10.10.2023. The affidavit is silent regarding the ownership of phone no.82649-69626 and the details regarding to whom the sim card was issued. The details regarding who recharged this phone number are not forthcoming. The possibility of other inmates, apart from the accused-petitioner, using the phone cannot be ruled out.

8. Learned State counsel has pointed out that the accused-petitioner was transferred to the District Jail, Sangrur on 07.06.2023. From the day the petitioner was transferred to the said Jail he appears to have been in possession of the mobile phone as is apparent from the call records. The

Superintendent, District Jail, Sangrur tried to absolve himself by submitting that this had happened prior to his joining in District Jail, Sangrur on 21.07.2023. However, even after 21.07.2023 the accused-petitioner was continuously using his mobile phone which is apparent from the hundreds of calls made and received by him or possibly the other inmates. The calls have been made and received at all hours of the day and night. The inmate could not have indiscriminately used the mobile phone while lodged in the barracks without the active connivance of the Jail officials. Merely stating in the affidavit that the phone was recovered does not absolve the Jail Authorities of their duty. There has been serious dereliction of duty on the part of Jail Officials.

9. The usage of a mobile phone from within the Jail by an inmate is a serious concern. Inter-action between extremists and criminals lodged in Jail with their associates or well-wishers or financiers outside cannot be ruled out. Criminals can continue with their nefarious activities while in Jail. Witnesses can be compromised leading to collapse of the case set-up by the prosecution. This is a serious security lapse which can lead to drastic consequences. This grave aberration in prison security must be immediately addressed and remedied.

10. Though it has been stated by the Additional Director General of Police (Prisons), Punjab in his affidavit dated 19.10.2023 in para 4(viii) that vide letter dated 14.08.2023 the Superintendent, District Jail, Sangrur had made a general request regarding security and administrative requirement of the prisons including the requirement of CCTV cameras and that the Superintendent, District Jail, Sangrur was directed to purchase the equipments at his own level in case the cost of the equipments was within

his financial competence or seek administrative and financial approval from the office of the Additional Director General of Police (Prisons), Punjab in case the cost of the equipments was beyond his financial competence, the facts show that several steps need to be taken to stop the use of mobile phones by inmates while in Jail and also stop the smuggling of other items into the Jail.

11. The present case is one such incident which has come to light. Such like illegal activities cannot take place either without the active connivance of the Jail Authorities or dereliction of duties by them. Reports need to be sought from all jails in the States of Punjab, Haryana and U.T. Chandigarh as to what steps are in place and in the pipeline to stop the usage of mobile phones from within the Jails by the inmates and to curb the entry of prohibited items in to the Jails which are expected to be highly protected and secure areas.

12. The matter in hand being serious in nature requires initiation of appropriate *suo moto* proceedings by this Court in Public Interest. Hence, the Registrar (Judicial) is directed to put up the case before Hon'ble the Acting Chief Justice for appropriate order in the matter.

13. A copy of this order be also brought to the notice of the Administrative Judge, Sessions Division, Sangrur.

(ALKA SARIN)
JUDGE

31.10.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO