

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 526 of 2017**

(Arising out of order dated 12.04.2017 in W.P. (Cr.) No. 105/2016 of the learned Single Judge)

- Pawan Singh Rajput S/o Late Shri Brijlal Singh Rajput, Aged About 38 Years R/o Village Khairkhundi, Tahsil Ratanpur, District Bilaspur, Chhattisgarh. Present Address Phokatpara, Sarwamangala Road, Police Station-City Kotwali, Korba, District Korba, Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh, Through: The Secretary, Jail Department, Mahanadi Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. The Director General Of Prisons And Correctional Services Chhattisgarh, Head Quarter, Prisons And Correctional Services, Chhattisgarh, Raipur, Chhattisgarh.
3. The Deputy Inspector General, Head Quarter, Prisons And Correctional Services, Chhattisgarh, Raipur, Chhattisgarh.
4. The District Magistrate, Bilaspur, Chhattisgarh.
5. The Jail Superintendent, Central Jail, Bilaspur, Chhattisgarh.
6. Jail Superintendent, District Jail, Korba, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Rishi Rahul Soni, Advocate
For State	:	Shri J.K. Gilda, Advocate General along with Mr. U.N.S. Deo, Government Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Sharad Kumar Gupta, Judge

Order On Board

Per Thottathil B. Radhakrishnan, Chief Justice

12.12.2017

1. In this appeal, the challenge is against the decision of the learned Single Judge refusing to interfere with the decision of the statutory authority in control of the prisons. We have heard the learned Counsel for the appellant and the learned Advocate General.
2. The appellant stands convicted and sentenced to undergo different punishments including life imprisonment. His conviction and sentence have been confirmed by this High Court. He is lodged in Bilaspur Central Prison. His wife made a representation that she lives in Korba with a daughter and they do not have means to visit the appellant in Bilaspur Central Prison. She also pleaded that there is no one to support her and her daughter. She, therefore, sought that the convict-Pawan Singh Rajput, who is the appellant before us, be transferred to the District Jail, Korba.
3. Rule 433(e)(iv) of the Madhya Pradesh Prisons Rules, 1968 (for short "Rules, 1968") has been noted by the learned Single Judge to the effect that casual prisoners with sentences exceeding ten years shall be transferred to the Central Jail concerned. Therefore, a person who is not a habitual prisoner, whose sentence exceeds 10 years, is to be housed in the Central Jail. The power to make the appropriate choice is indisputably with the statutory officers in the sector of prison management and reforms. The Director General is entitled to pass order of transfer of prisoners under Rule 791(f) of the Rules, 1968.

4. The application of the wife of the appellant to transfer him to the prison in Korba has been rejected. Though, ameliorative circumstances may exist, we are not persuaded solely by those factors. On a deeper consideration, we have to remind ourselves that even if the appellant is shifted to a prison in Korba, his availability to take care of his daughter and the family, is near to impossibility. If the appellant is shifted to Korba, it may be that the wife and daughter would have to travel only a shorter distance to access and meet the convict-appellant. But, the rules and procedures now in force do not provide for daily visitation. A fortnightly visit and also facilities for connectivity over telephone are now augmented with expense-free phone calls from the prisons as well. On the whole, we are of the view that the learned Single Judge cannot be found to be in fault for having dismissed the writ petition on the basis of the applicable statutory rules.

5. This intra-Court appeal therefore fails. This writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge