

114.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-29484-2017

Date of decision:19.09.2017.

RAMESH KUMAR

... Petitioner

Versus

STATE OF HARYANA AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sagar Aggarwal, Advocate,
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J.

Petitioner-Ramesh Kumar has filed the present petition under Section 482 Cr.P.C. for quashing the order dated 02.06.2017 (Annexure P-4) whereby the Superintendent Jail, Central Jail-II, Hisar i.e. respondent No.2 had informed the learned Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Hisar, that only those persons who are in blood relation of the inmate i.e. undertrial prisoner Rampal Dass son of Nand Ram, can be allowed to meet him and the petitioner, who is claiming to be a disciple of the undertrial prisoner, cannot meet him as per the Jail Manual.

Challenge has also been made to the order dated 05.06.2017 (Annexure P-5) whereby the petitioner has been refused to

meet with the undertrial prisoner, namely, Rampal Dass because he is

not having any blood relation with Rampal Dass. As per Jail Manual, only the persons, having blood relation with the inmates, can meet the prisoners.

It is the case of the petitioner that he is a follower/disciple and a good friend of Rampal Dass, who is confined in Central Jail-II, Hisar, in FIR No.428 dated 18.11.2014 under Sections 107/ 147/ 148/ 149/186/188/120-B/121/121-A/ 122 /123/ 124/ 125 /332 /353/326-A/435/333/342/397/436 IPC; 25/54/59 A of Act; 3, 4 of Explosive Act; 3, 4 of PPD Act; 16, 18, 20, 2C, 23 of T.U.A.P. Act, 1967, registered at Police Station Barwala, District Hisar. 10 other cases are also reportedly pending against the accused Rampal Dass.

Learned counsel for the petitioner has argued that the petitioner had submitted an application dated 15.05.2017 before the National Legal Services Authority, so as to allow him to meet Rampal Dass, who is lodged in Central Jail-II, Hisar. The said application was forwarded to Member Secretary, Haryana State Legal Services Authority, Panchkula on 17.05.2017. Further, vide letter dated 25.05.2017, the Member Secretary, Haryana State Legal Services Authority forwarded the application of the petitioner to Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Hisar to take necessary action upon the said application.

Pursuant to aforesaid communication received from District Legal Services Authority, the Chief Judicial Magistrate vide his letter dated 30.05.2017 had directed the Superintendent, Central Jail-II, Hisar

to allow the meeting of the petitioner with Rampal Dass as per Rules and the Jail Manual. However, the Superintendent, Central Jail-II, Hisar vide impugned order dated 02.06.2017 turned down the request of the petitioner to meet the undertrial prisoner Rampal Dass on the ground that only those persons who are in 'blood relation' of inmate can be allowed to meet the prisoner. Petitioner is a disciple of undertrial prisoner-Rampal Dass and, therefore, he cannot be allowed to meet Rampal Dass, as there is no such provision in the Jail Manual to allow a disciple to meet undertrial. Consequently, the Chief Judicial Magistrate had intimated the petitioner that only those persons, who are within 'blood relation' with inmates can be allowed to meet prisoners. Therefore, the prayer of the petitioner to meet Rampal Dass was declined.

It is argued that the impugned orders i.e. Annexures P-4 and P-5 whereby the application of the petitioner to meet Rampal Dass has been declined, is contrary to law. He has submitted that in view of relevant provisions of Punjab Jail Manual i.e. Rule 559A, unconvicted criminal and civil prisoners shall be granted facilities for writing two letters and two interviews each week with their relatives or friends and, therefore, the petitioner being a disciple, falls within the definition of word "friend". He has stated that as per the dictionary meaning, the word "friend" means, 'any ally in a fight or cause and not a person known well to another with linking, affection and loyalty as understood commonly'. The petitioner being a friend can interview the undertrial

for the purpose of discussion or converse with, especially in order to obtain information or ascertain personal qualities. Therefore, petitioner is entitled to meet the undertrial being a disciple of Rampal Dass.

Reply of Superintendent Jail, Central Jail-II, Hisar, has been filed on behalf of respondent No.2, which is taken on record. It has not been disputed that Rampal Dass son of Nand Ram is a undertrial prisoner since 11.12.2014. Presently, he (accused) is facing the following criminal cases:-

- “(i) FIR No.428 dt. 18.11.2014, U/s 107/ 147/ 148/ 149/ 186/188/120-B/121/121-A/ 122 /123 /124/ 125/ 332/ 353/ 326A/435/333/342/307/436 IPC & 25/54/59A. Act & 3, 4 Explosive Act, 3, 4 PPD Act 16, 18, 20, 2C, 23 T.U.A.P. Act 1967 PS Barwala District Hisar pending in the Ld. Court of Sh. Ajay Prashar ASJ Hisar fixed for 25.09.2017.
- (ii) FIR No.429 dt. 19.11.2014, U/s 343/302/120-B IPC, PS Barwala pending in the Ld. Court of Sh. Ajay Prashar ASJ Hisar fixed for 09.10.2017.
- (iii) FIR No.430/2014, U/s 343/302/120-B IPC PS Barwala pending in the Ld. Court of Sh. Ajay Prashar ASJ Hisar fixed for 11.09.2017.
- (iv) FIR No.443 dt 28.11.2014, U/s 420 IPC 7/10/55 Explosive Act PS Barwala pending in the Ld. Court of Sh. Mukesh Kumar JMIC, Hisar, fixed for 20.09.2017.
- (v) FIR No.446/2006, U/s 419/420/467/468/469/120-B IPC PS Civil Line Rohtak pending in the Ld. Court of Ms. Nidhi Solanki, JMIC, Rohtak.
- (vi) FIR No.198 dated 12.07.2006, U/s 148/ 323/ 302/ 307/149/120-B IPC & 25/27/30/54/59 A. Act PS Sadar Rohtak pending in the Ld. Court of Sh. Ashwani Kumar Addl. Sessions Judge Rohtak fixed for 15.09.2017.

(vii) FIR No.04/13, U/s 295-A/120-B IPC, P.S. Samrala pending in the Ld. Court of Sh. Manish Garg SDJM, Samrala (Pb.) fixed for 18.09.2017.

(viii) FIR No.201 dt. 12.07.16, U/s 153/153-A(b)/153b/504/505(1)(b)/120B IPC P.S. Barwala fixed for 20.09.2017.

(ix) Comp. Case U/s 27B(2) 22/3/28 Drugs & Cosmetic Act 1940 fixed for 13.09.2017.”

As per the Jail Manual and Rules framed thereunder, an undertrial convict is allowed to meet two times in a week with his relatives and advocates who come to meet him from time to time regarding his cases. Petitioner-Ramesh Kumar is neither a relative of the undertrial prisoner nor his advocate, but only claiming to be a follower/disciple of the undertrial prisoner. Therefore, in view of para No.560 of Punjab Jail Manual, the term “friend” or “relative” as applied to a prospective interviewer of prisoners and as occurring in paragraphs 549 to 560 is to be literally and strictly interpreted, that is to say, “no one should be allowed an interview with a prisoner who is not entitled under the rules to interview, unless he can submit proof of a personal and intimate acquaintance or of near relationship”. In the case of a relative, the nature of relationship should be ascertained. Therefore, the petitioner cannot be allowed to meet the undertrial prisoner Rampal Dass merely on the ground that he is a follower of Rampal Dass, an undertrial. Respondent No.2 being Superintendent of Jail has no interest in any undertrial/convict except their safety in the jail and to perform his duties sincerely as per rules prescribed under

law. The jail authorities are bound to maintain the law and order and to maintain the administration. Many people/followers come to jail every day to meet with the accused Rampal Dass who is otherwise involved in very serious offences and criminal cases and every such follower claims to be a good friend of the undertrial prisoner Rampal Dass. Therefore for security reasons, meeting of such persons cannot be permitted with Rampal Dass, so as to avoid any mishap which may happen with the said prisoner. Therefore for the security reasons and for the protection of undertrial prisoners, the jail authority cannot allow the followers to meet the undertrial. Still, advocate and relatives of the undertrial Rampal Dass are being permitted to meet him during working hours on any working day as per rules.

I have heard learned counsel for the parties.

Rule 559-A of Punjab Jail Manual, as cited by learned counsel for the petitioner, reads as under:-

“559-A. Interview and communication of civil and unconvicted prisoners.-Unconvicted criminal and civil prisoners shall be granted facilities for writing two letters and two interviews each week with their relatives or friends:

Provided that all reasonable facilities shall be granted at proper time and under proper restrictions for interviewing or otherwise communicating either orally or in writing with their legal advisors.

The exercise of the privilege shall be contingent on good conduct and may be withdrawn or postponed by the Superintendent for bad conduct.”

The plea of the petitioner that the petitioner being a disciple/follower falls within the definition of word “friend” as mentioned in Rule 559-A of Punjab Jail Manual, cannot be accepted. He may be a follower or disciple, but he cannot be termed as a “relative” or “friend”. In para 560 of Punjab Jail Manual, the terms “friend” or “relative” as applied to a prospective interviewer of prisoners and as occurring in paragraphs 549 to 560, is to be literally and strictly interpreted, that no one should be allowed an interview with a prisoner who is not entitled under the rules to interview, unless he can submit proof of a personal and intimate acquaintance or of near relationship. But the petitioner has not been able to establish that he strictly falls within the definition of the term “friend” or “relative”. The petitioner does not fall within the category of blood relation. Simply because the petitioner is a disciple, he does not fall within the ambit of Rule 559-A of Punjab Jail Manual.

Even otherwise it has been pleaded by the respondent that to allow the petitioner to meet the undertrial, is neither in public interest nor in the interest of the security of the jail. The persons, who strictly fall within the definition of word “friend” or “relative” have been allowed opportunity to meet the undertrials, for which, a list of such persons has been attached with the reply who met with the undertrial prisoner Rampal Dass during 01.03.2017 to 01.09.2017.

So far as the judgment cited by learned counsel for the petitioner in **Rampal and another Versus State of Haryana and**

another-2017(1) Law Herald 151, the same is not applicable to the facts and circumstances of present case as in that case, the petitioner was held entitled to an interview with the undertrial in his capacity as a friend for the purpose of pending cases against the undertrial and further to supply documents to the counsel concerned. In that case also the petitioner was entitled to have an interview with the prisoner in his capacity as a friend subject to the conditions adumbrated under para 559A of the Punjab Jail Manual.

In view of above, this Court does not find any illegality in the orders passed by the jail authorities who have acted as per the provisions of Jail Manual. Accordingly, present petition is dismissed.

(HARI PAL VERMA)
JUDGE

19.09.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No