

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12196 of 2018
Date of Decision:21.08.2018

Krishna and others

. Petitioners

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.R.S. Dhull, Advocate,
for the petitioners.

Ms.Safia Gupta, AAG, Haryana.

RAKESH KUMAR JAIN, J.

The petitioners are the residents of Village Lahrara District Sonapat, who have been convicted in a case registered vide FIR No.62 dated 13.4.2007 under Section 302 read with Section 34 of the Indian Penal Code, 1860 [for short 'the IPC'] and Sections 25/54/59 of the Arms Act, 1959 [for short 'the Arms Act'] at Police Station Sadar, District Sonapat by the Additional Sessions Judge, Sonapat on 21.3.2009 and sentenced to suffer life imprisonment. They filed criminal appeal bearing CRA No.372-DB of 2009 which was dismissed on 30.05.2014 by this Court. Petitioners No.1, 2 and 4 are presently lodged in District Jail, Rohtak and petitioner No.3 is lodged in District Jail, Faridabad. They all belong to the same family and have prayed for the issuance of a writ in the nature of certiorari for quashing the order dated 27.10.2017 passed by the Director General of Prisons, Haryana (respondent No.2) by which their application for their transfer to District Jail, Sonapat has been declined.

In brief, the application filed by the petitioners for their transfer was earlier declined vide orders dated 15.5.2017 and 20.07.2017 but the said orders were set aside by this Court in CRM-M No.32132 of 2017 decided on 31.08.2017 on the ground that the said orders were non-speaking and a direction was issued to respondent No.2 to pass a fresh order.

Apropos, respondent No.2 has passed the impugned order declining the prayer of the petitioners, *inter alia*, on the ground that the authorized capacity of District Jail, Sonapat is 745 whereas there are 1191 prisoners in the said jail at present and thus it is already overcrowded. Reference has been made to an order passed by the Supreme Court on 6.5.2016 passed in *CWP(Civil) No.406 of 2015* in the matter of “*inhuman conditions 1382 prisoners in India and others*” that no jail should exceed number of inmates more than 150% whereas Sonapat Jail is already over populated as it has more than 150% inmates. It is also observed therein that the Sonapat Jail is most sensitive jail as number of criminals of different gangs are lodged in it and that the prisoners in the prisons of all over Haryana have been facilitated with prisons inmate calling system from where they could make a call for five minutes to their relatives and family members on two registered phone numbers and thus they are well connected with their family members and relatives on daily basis. It is also observed that the Superintendent District Jail, Rohtak vide letter No.8358 had requested to transfer 22 mischievous prisoners including one of the petitioners, namely, Pardeep son of Ishwar but out of 22 convicts only 12 convicts were transferred on 30.8.2017 in different Jails of Haryana including Pardeep son of Ishwar and the remaining 10 prisoners were not shifted because their cases are pending in Rohtak and other districts for trial

observed that earlier Pardeep son of Ishwar was transferred from District Jail, Gurugram to District Jail, Rohtak on 8.10.2015 on his request and since his conduct was not good in jail and that Sirsa Dera Chief is also confined in the said jail, therefore, for the security reasons he was transferred to District Jail, Faridabad where there is enough space.

Learned counsel for the petitioners has submitted that the Rohtak Jail and Faridabad Jail are at a distance of about 100 kms. from Sonapat which is found difficult for the family members to visit, therefore, the prayer has been made for their transfer to Sonapat Jail. It is also submitted that the transfer of the prisoners from one jail to other cannot be declined on the ground of overcrowding and in this regard a decision rendered by a Single Judge of this Court in the case of ***“Manohar Lal Vs. State of Haryana” 2001 (1) CLR 90*** has been referred.

In reply, learned counsel for the respondents has submitted that the decision in the case of ***Manohar Lal (Supra)*** is not applicable and has relied upon a decision of the Supreme Court rendered in ***Writ Petition (Civil) No.406 of 2013 titled as “Re-Human conditions in 1382 prisons”***. It is further submitted that petitioner No.1 was transferred to District Jail, Sonapat vide order of the Director General of Prisoners, Haryana dated 17.1.2017 but after her admission she made an application for seeking transfer to District Jail, Rohtak again and on her request, she was transferred to District Jail, Rohtak on 16.2.2017.

I have heard learned counsel for the parties and after considering the aforesaid facts and circumstances, am of the considered opinion that there is no ground for quashing the impugned order dated 27.10.2017 in which cogent reasons have been given by respondent No.2 for declining the prayer of the petitioners.

In view of the above, the present petition is found to be devoid of any merit and hence, the same is hereby by dismissed though without any order as to costs.

21.08.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*
Whether Reportable : *Yes/No*