

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

CRM-M No. 51042 of 2018

Date of decision : 15.01.2019

Honeypreet @ Priyanka Taneja

.....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Vinod Ghai, Senior Advocate with
Mr. J. S. Mehndiratta, Advocate for the petitioner.

Mr. Rajesh K. Sheoran, Addl. A. G., Haryana.

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DAYA CHAUDHARY, J. (Oral)

Petitioner Honeypreet alias Priyanka Taneja has approached this Court under Section 482 of the Code of Criminal Procedure, 1973 for setting aside impugned order dated 29.10.2018 passed by learned Additional Sessions Judge, Panchkula, whereby the application filed by her for providing Prison Inmate Calling System Facility (for short - 'PICS facility') has been declined in case FIR No.345 dated 27.08.2017 under Sections 120-B, 121-A, 145, 150, 151, 152 and 153 of the Indian Penal Code, 1860 (for short - 'IPC') registered at Police Station Sector 5, Panchkula (final report/challan has been presented under Sections 145, 146, 150, 151, 152, 153, 121, 121-A, 120-B and 216 IPC).

Learned Senior counsel for the petitioner submits that the petitioner made a request for providing PICS facility. The Director General

of Prisons, Haryana also issued instructions to provide PICS facility to prisoners after verification of phone numbers provided by them. Phone numbers given by the petitioner were also verified but still PICS facility has not been provided to the petitioner. Learned Senior counsel further submits that PICS facility has been provided to the co-accused who are facing trial along with the petitioner. Learned Senior counsel submits that phone numbers provided by the petitioner were sent for verification and the Superintendent of Police, Sirsa sent a report on 25.01.2018 stating that the PICS facility be not provided to the petitioner as a number of cases relating to violence are pending in Sirsa district. It is also mentioned that large number of people are yet to be arrested and providing PICS facility to the petitioner may endanger the peace in the area. Learned Senior counsel further submits that as per instructions dated 14.01.2015 issued by the Director General of Prisons, Haryana to all Superintendent Jails, Haryana, an inmate is entitled to facility of phone after verification of the numbers by the concerned police authority with certain terms and conditions. The inmates and the accused who are facing trial, are entitled to talk to their close relatives like spouse/children/mother/father/sister/brother and lawyer *etc.* The character, identity and antecedents of their relatives and lawyers are necessary to be verified by the jail authorities through police or otherwise before making the service available to the prisoners. Learned Senior counsel also submits that the impugned order has been passed contrary to said instructions and without any application of mind.

Learned State counsel has opposed the submissions made by

learned Senior counsel for the petitioner stating that the application has rightly been rejected. Said facility cannot be claimed as a matter of right. As per the terms and conditions of Haryana Government for providing and installation of Prison Inmates Calling System (PICS) for the jail inmates, the prisoners who are involved in offence against the States, terrorist activities, MCOCA, MCA, PSA *etc.* or involved in multiple heinous offence such as robbery, dacoity, murder, kidnapping for ransom, *etc.*, habitual jail rules offenders and who are frequently involved in assaulting jail inmates in the prison are not entitled to PICS facility. Learned State counsel submits that the reasons have been mentioned in the impugned order that 20 criminal cases have been registered in connection with incident of Dera violence occurred in the State and a number of persons are yet to be arrested.

Heard arguments of learned counsel for the petitioner as well as learned State counsel. I have also perused the contents of the impugned order carefully and the other documents available on the file.

The claim of the petitioner has been rejected only on the ground that many FIRs have been registered in connection with incident of Dera violence episode. A number of persons are yet to be arrested. There is apprehension of breach of peace in case said facility is granted to the petitioner.

Admittedly, the Director General Prisons, Haryana circulated instructions vide letter dated 14.01.2015 modifying the earlier instructions issued in this regard. The relevant portion of the instructions is reproduced

as under:-

“The prisoner shall be allowed to call up two pre-specified telephone numbers five minutes daily for a maximum call of 35 minutes in a week.

As and when a new prisoner is admitted into the jail, his finger prints will be scanned and stored in the system. The prisoner will be asked to provide two post-paid/pre-paid telephone/mobile numbers of his/her close relatives like spouse/children/mother/father/sister/brother and lawyer etc. on which he/she will like to make calls. The character, identity and antecedents of their relatives and lawyers shall be got verified by the jail authorities through police or otherwise before making the service available to the prisoner. No facility shall be allowed without this verification.”

As per the said instructions, a prisoner is allowed to talk to his/her close relatives like spouse/children/mother/father/sister/brother and lawyer *etc.* to whom he/she likes to make calls. However, the character, identity and antecedents of said relatives and lawyers is necessary to be verified by the jail authorities through police or otherwise before providing such facility. As per said instructions, this facility is allowed only after verification and not without verification.

Petitioner has given two contact numbers of the persons who are in close relation and report/verification was sought through the police and thereafter, her claim was rejected only on the ground that total 20 FIRs have been registered in connection to incident of Dera violence and that some of the accused are yet to be arrested. It is also mentioned that there is apprehension of breach of peace. Petitioner is not accused in any heinous crime as mentioned in the reply *i.e.* offence against the States, terrorist

activities, MCOCA, MCA, PSA etc. or in the category of multiple heinous offence such as robbery, dacoity, murder, kidnapping for ransom, etc. habitual jail rules offenders and who are frequently involved in assaulting jail inmates. Moreover, the call details are kept reserved for a period of 15 days and time period is also there for making calls. Nothing is mentioned in the impugned order of rejection as to how the peace is going to be disturbed in case the petitioner is allowed to use PICS facility. Moreover, the same facility has been granted to the co-accused who are facing trial with the same allegations in the same FIR, in which the petitioner has been arrested.

The impugned order is totally contrary to the terms and conditions of the instructions and has been passed without any application of mind. The reasons given in the impugned order do not stand and as such the impugned order deserves to be set aside.

Accordingly, the present petition is allowed and impugned order dated 29.10.2018 passed by learned Additional Sessions Judge, Panchkula is set aside. The respondents are directed to provide PICS facility to the petitioner in accordance with the instructions, as discussed above.

15.01.2019*sunil yadav***(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No