

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

CWP No. 13854 of 2018.

Date of Decision: 04.04.2019.

Ravinder Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. I.S. Pabla, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

Mr. Vikrant Pamboo, DAG Haryana.

JITENDRA CHAUHAN.J.(ORAL)

The prayer in the present petition is to transfer the brother of the petitioner, namely, Gaurav @ Ravinder, convict in FIR No. 54 dated 05.06.2014 registered under Sections 15 and 25 of NDPS Act, 1985 at Police Station Bareta, District Mansa, lodged in District Jail, Mansa to any Jail in the State of Haryana.

In pursuance to the notice of motion order, the Inspector General of Police has filed reply dated 03.10.2018. As per the reply, there is no space in District Jail, Kurukshetra and as against the sanctioned capacity of 733 persons, already 446 persons stand lodged as on 25.09.2018.

The transfer is sought on the ground that the petitioner is the complainant in FIR No. 21 dated 17.12.2017 registered under Sections 327, 166, 120-B read with Section 34 IPC and Sections 7, 8, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act,

Police Station Vigilance Bureau, Bathinda wherein Superintendent along with Deputy Superintendent and Lineman are the accused. They had demanded bribe of Rs.10,000/- per month for providing certain facilities like group-wise barrack and use of mobile phone etc. to the the convict. As the bribe was not paid, the brother of the petitioner was being continuously harassed by Assistant Superintendent of Jail along with Lineman of the Jail.

On account of receipt of phone call and the constant pressure by the jail authorities to give bribe, the petitioner was constrained to file a complaint to the Senior Superintendent of Police (Vigilance), Bathinda against the said officers. In pursuance to the complaint, a trap was laid and two officials of the District Jail were caught red handed while accepting money from the petitioner. Accordingly. FIR No. 21 dated 17.12.2017 under Sections 327, 166, 120-B read with Section 34 IPC and Sections 7, 8, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, Police Station Vigilance Bureau, Bathinda was registered against them. It is asserted that the registration of the FIR by the petitioner has generated hostility against his brother in the Police Department, therefore, the life and liberty of his brother is threatened at the hands of the Jail Staff.

The taking of the bribe and the registration of the FIR are not in dispute at this stage. Though, there is a report that there is no space available in the District Jail, Kurukshetra however, the Court

feels that the life and liberty of brother of the petitioner, though a convict, cannot be allowed to be jeopardized at the hands of the Jail Authorities and the Court feels that the convict is to be kept in an atmosphere free from hostility and any external interference in order to achieve the intended purpose of reformation by putting him in the incarceration. The Court feels that the intended reform cannot be achieved in such a hostile and insecure surroundings.

In the circumstances, in the interest of justice, and to ensure that life and liberty of the petitioner is fully protected, it is ordered that the brother of the petitioner be lodged in Central Jail, Ambala. The necessary transfer be carried out within one week from the date of receipt of certified copy of the judgment. Respondent No.3 will ensure the safety and security of brother of the petitioner during his shifting from the District Jail Mansa to Central Jail, Ambala.

A copy of the order be also sent to respondent No.4.

04.04.2019.

SN

(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No