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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3201/2018 & CRL.M.A. 35037/2018**

MOHD SHAHABUDDIN

..... Petitioner

Through: Mr Salman Khurshid, Sr. Advocate
with Mr Khalil Ansari, Mr Iftkhar
Ahmed, Mr Arpit Shukla, Ms Ayesha
Jamal and Mr Zafar Khurshid,
Advocates.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr R. S. Kundu, ASC with Mr Hitesh
Vali, Advocate for State and Mr
Jorawar Singh, Law Officer with Mr
Amresh Goyal, Asstt. Supdt. (Legal),
Tihar Jail.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.08.2019

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a) to issue a Writ of Mandamus or any other appropriate writ, order or direction thereby quashing the order being F.No.(3502052)/CJ/Legal/2018/29184 dated 28.06.2018 issued by Respondent No.1 and order dated 24.07.2018 passed by Learned District & Sessions Judge, Tis Hazari, Delhi; and

(b) to issue a Writ of Mandamus or any other appropriate writ, order or direction thereby commanding the

Respondents to forthwith remove the Petitioner from solitary confinement; and

- (c) to award compensation to the tune of Rs. 1,00,00,000/- (Rupees One Crore) Only to the Petitioner to be paid by the Respondents on account of his custodial torture; and
- d) to issue a Writ of Mandamus or any other appropriate writ, order of direction thereby commanding the Respondents to duly afford all facilities in terms of the Jail Manual to the Petitioner and;
- (e) to issue rule *nisi* in terms of prayer clauses (a) - (c)”

2. Mr Salman Khurshid, learned senior counsel appearing for the petitioner submits that the petitioner is, essentially, aggrieved on three fronts. First, that he has been placed in a solitary confinement and has been denied visitation from his friends. Second, he states that the petitioner is deprived of his right of prayers in a mosque. Third, the petitioner has not been provided the requisite facilities as are available to other prisoners.

3. Insofar as the petitioner’s contention that he has been placed in a solitary confinement is concerned, the same is erroneous. The petitioner has been placed in a separate block and not in solitary confinement. Considering that he is a high-risk offender, he is, accordingly, not permitted to mix with other prisoners. The status report has been filed, wherein it is affirmed that the petitioner is housed in a separate block of high security ward and all basic facilities, as available to other prisoners, have been provided to the petitioner.

4. It is stated that there is no restriction over the petitioner’s day-to-day activities and the petitioner has been provided the canteen facility, library

facility, telephone facility, cable facility, medical facility etc. It is also affirmed that the petitioner has also been allowed “*regular mulaqat*” (interview with relatives and friends) twice in a week. It is also stated that family members and friends of the petitioner visit jail regularly and legal interview with his advocate is allowed once a week.

5. Notwithstanding the status report filed, learned ASC submits that new prison rules are in force and the same do not permit visitation rights from friends. He states that interviews are allowed only from blood relations, spouse and authorised lawyers. Further, all visitations are also monitored.

6. Mr Kurshid states that the petitioner’s close family is limited to only two woman who cannot come to visit him and, therefore, he ought to be permitted visitation from his friends.

7. A plain reading of the Delhi Prison Rule, 2018 indicates that the provision to limit public interviews only with blood relations, spouse and authorised lawyers, is not mandatory. This is apparent from the plain language of the said Rules, which indicates that interviews “should not be allowed” with other persons. In given circumstances, where the prisoner kept in an isolation does not have any family members, the jail authorities ought to permit minimal visitation rights from friends. The object of the rule is to limit visitation and ensure a level of isolation in case of high-risk prisoners. Clearly, in absence of immediate family members, interviews with close friends ought to be permitted.

8. In view of the above, the petitioner is permitted to give names of four friends. The antecedents of the said friends would be verified. The jail authorities shall restrict the visitation not more than two persons a week

after verifying their antecedents. The interviews and visitations would also be monitored.

9. Insofar as granting permission to the petitioner to offer prayers as per his religion is concerned, there is no impediment in the petitioner doing so. However, this Court is informed that there is no mosque or other religious structure in the jail premises and each prisoner offers the prayer as per his faith. In this view, the request of the petitioner to offer prayers with other prisoners cannot be acceded to. The petitioner is, of course, not constrained in any manner to offer the prayers as per his faith, within the confines of the premises where he is housed.

10. In regard to the issue of facilities is concerned; as noticed above, the petitioner has been granted the facilities as are available to other prisoners.

11. No further orders are required to be passed in this petition. Accordingly, the same is disposed of. The pending application also stands disposed of.

VIBHU BAKHRU, J

AUGUST 30, 2019
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