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

+ **W.P.(C) 14996/2023 & CM APPL. 59884/2023**

SOHRAB

..... Petitioner

Through: Mr. Ashok Agrwaal and Mr. Dhruv
Sharma, Advocates.

versus

STATE (GOVT OF NCT OF DELHI) AND ANR.

..... Respondents

Through: Mr. Rishabh Srivastava and Ms.
Prashansa Sharma, Advocates for Mr.
Santosh Kumar Tripathi, SC.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

19.03.2024

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1. The instant writ petition has been filed by the Petitioner stating that he is not being permitted to avail 'E-Mulakat' facility to talk to his family who takes care of his mother who is bed ridden and also to maintain social ties.
2. It is stated by the learned Counsel appearing for the Respondents that the Petitioner is being permitted to avail 'E-Mulakat' facility in accordance with Rules and Regulations.
3. This Court on 20.11.2023 had directed the Respondents to file a status report stating as to why the facility of 'E-Mulakat' should not be extended to all the similarly situated prisoners whose relatives do not stay in Delhi. A status report has been filed by the Respondents. Relevant portion of the status report reads as under:



1. With regard to E-Mulakat facility, the circular No. File No. 10 (3635001)/Legal/PHQ/2022/7247-66 Dated 26.12.2022 (Annexure 1) was issued (under Rule 630 of Delhi Prison Rules) which mentions –

“During COVID Era, physical mulakat of the prisoners was stopped and use of E-Mulakat facility was introduced in Delhi Prisons. It has been observed that this facility is found very helpful especially for those jail inmates whose families/relatives are living at faraway places in the country or having difficulties in conducting physical interviews.

The E-Mulakat has its own pros and cons like possibility of misuse of the facility from the side of the relatives of the prisoners conducting E-Mulakat and other sensitive issues involved therein. Keeping a balance in between the merits and demerits of the facility it has been decided to continue this facility to the prisoners lodged in Delhi Prisons subject to the following instructions:-

I. E-Mulakat of a prisoner will be allowed only with his/her blood relatives/spouse as mentioned in the recorded list of the jails. The person who is mentioned in the list provided by the inmates will only be allowed to request for conducting E-Mulakat.

II. Preference for the E-Mulakat facility will be given to those prisoner(s) who do not avail their physical mulakat.

III. E-Mulakat facility will be subject to maintaining good conduct in Jail. Thus, the inmate who violates jail rule(s) or is found to



misuse this facility or in whose case this facility found to be misused by the family member/spouse of the inmate will not be eligible for this facility. Further, if the Superintendent has sufficient reasons to believe that the inmate is not entitled for the said facility, he may decline for the same with recorded reasons.

IV. E-Mulakat facility will be subject to availability of slot and will not be permitted more than twice a week to an inmate. It may also be noted that in no case more than two mulakat in a week be allowed in either case i.e. physical or E-Mulakat or in combination thereto.

V. As regards the inmates who are lodged in High Security Ward or falling under the prescribed category of Rule 631 of Delhi Prisons Rules, 2018, the jail superintendent may take an appropriate decision to consider the request of E-Mulakat of such inmate(s) considering the jail conduct, involvement in criminal cases, length of time from when the inmate is not availing the physical interview and other suitable reasons as he thinks fit, on case to case basis. The recommendation of the Superintendent to allow this facility to such inmates will be implemented after the approval of DIG (Prisons). This facility will be allowed once in a week. The information of conducting E-Mulakat of these categories of prisoners shall be shared with the investigation agencies. The E-Mulakat of these categories of inmates will be held between 2:00 PM to 04:30 PM.

VI. The Superintendent Jail shall ensure that



the duration of the E-Mulakat shall not be more than 15 minutes. This facility should not be permitted on Holidays, Saturdays and Sundays.

VII. The inmates shall be allowed to use the E-Mulakat facility only in the presence of jail official atleast of the rank of Assistant Superintendent. The E- Mulakat facility should be preserved for one month. Whereas, if any violation is noticed by the concerned officer under whose presence the E-Mulakat is being conducted, such recordings of E-Mulakat shall be preserved for future references or till further orders of the Jail Superintendent.”

2. The above circular mentions at para 6 that-“As regards the inmates who are lodged in High Security Ward or falling under the prescribed category of Rule 631 of Delhi Prisons Rules, 2018, the jail superintendent may takean appropriate decision to consider the request of E-Mulakat of such inmate(s) considering the jail conduct, involvement in criminal cases, length of time from when the inmate is not availing the physical interview and other suitable reasons as he thinks fit, on case to case basis. The recommendation of the Superintendent to allow this facility to such inmates will be implemented after the approval of DIG(Prisons). This facility will be allowed once in a week. The information of conducting E-Mulakat of these categories of prisoners shall be shared with the investigation agencies. The E-Mulakat of these categories of inmates will be held between 2:00 PM to 04:30 PM”

A. Rule 631 of the Delhi Prison Rules No. 631 (Annexure 2) which states that- “Prisoners who are involved in offences against the State, terrorist activities, Maharashtra Control of Organized Crime



Act, National Security Advisor, Public Safety Act and otherwise involved in multiple heinous offences, such as robbery, dacoity, murder, kidnapping for ransom etc, habitual jail rules offenders and who are frequently involved in assaulting co-inmates in the prison shall not be eligible for the facility for availing Inmate calling System. However, the Superintendent Jail will be empowered to take appropriate decision in individual case to case basis with the prior approval of the Deputy Inspector General (Range)”

3. It is submitted that as on date there are 2199 inmates lodged in this Jail (Central Jail-03), out of which 2004 inmates are Under Trial Prisoners and the rest 195 inmates are Convict Prisoners serving sentence. This Jail houses 19 Prisoners who are lodged in the High Risk Ward. Further, there are 77 inmates who are booked for offences against state, Unlawful Activities & MCOCA Act.

4. Such cases and several other inmates involved in offences against the State, terrorist activities, Maharashtra Control of Organized Crime Act, National Security Act, Public Safety Act and otherwise involved in multiple heinous offences, such as robbery, dacoity, murder, kidnapping for ransom etc, habitual jail rules offenders and those who are frequently involved in assaulting co-inmates in the prison, are not be eligible for the facility for E-Mulakat. However, considering the jail conduct, involvement in criminal cases, length of time from when the inmate is not availing the physical interview and other suitable reasons as he thinks fit, the Jail Superintendent can recommend individual cases (on case-to-case basis) for approval of Deputy Inspector General (Range) for providing the inmate with e-Mulakat facility.”

4. The aforesaid status report indicates that the facility of ‘E-Mulakat’



has been made available to all the prisoners, however, prisoners who are accused/convicted for serious offences like terrorist activities, Maharashtra Control of Organized Crime Act, National Security Advisor, Public Safety Act, robbery, dacoity, murder, kidnapping for ransom etc, are permitted to avail the facility of 'E-Mulakat' subject to the satisfaction of the Jail Superintendent.

5. In respect of the Petitioner herein, it is stated in the status report that the Petitioner is availing the E-Mulakat facility after obtaining requisite approvals.

6. In view of the above, this Court is of the opinion that the Petitioner should be permitted to avail the facility of 'E-Mulakat' in accordance with Rules and Regulations and the Jail Authorities must take into consideration the fact that the Petitioner has to enquire about his mother who is bed ridden.

7. With these observations, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MARCH 19, 2024

S. Zakir