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

+ **W.P.(CRL) 806/2019**

STATE (NCT OF GOVT. OF DELHI)

.....Petitioner

Through: Mr. Yasir Rauf Ansari, ASC (Crl.) with Mr. Alok Sharma and Mr. Vasu Agarwal, Advocates.

versus

CHRISTIAN MICHEL JAMES & ANR

.....Respondents

Through: Mr. M.S.Vishnu Sankar, Mr. Aljo Joseph, Mr. Sriram Parakkat and Ms. Isha Singh, Advocates for R-1.

Mr. Ripu Daman Bhardwaj, SPP with Mr. Kushagra Kumar & Mr. Abhinav Bhardwaj, Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

06.02.2025

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1. The Petition under Article 226 and 227 of the *Constitution of India* read with *Section 482 of Criminal Procedure Code, 1973* has been filed on behalf of the Petitioner/State for modification of the Order dated 14.01.2019 and 21.01.2019 passed by learned Special Judge to the extent of limiting the time to 10 minutes instead of 15 minutes for ISD Calls in terms of Circular dated 27.01.2017 issued by Office of Director General of Prisons, Prisons Headquarters, Tihar, New Delhi.
2. It is submitted in the Petition that Respondent No.1 is a foreign national undertrial who is presently lodged in Central Jail No.1, Tihar,



New Delhi and is undergoing trial in the case titled as “CBI vs. S.P. Tyagi & Ors” arising out of FIR No. RC No.217-2013-A-0003, Branch CBI/AC-II/New Delhi under Section 120B read with Section 420 IPC and Sections 7,8,9,12 and 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988.

3. The Respondent No.1 had filed an Application before the learned Special Judge for directing the Superintendent to allow him an ISD call to enable him to be able to talk to his family members, relatives and friends and also to permit him to make calls to his counsels.

4. The learned Special Judge *vide* impugned Order dated 14.01.2019 permitted a weekly ISD call of 15 minutes which is contrary to the Office Circular dated 27.01.2017 which provides that the ISD calls to the foreign nationals be permitted for 10 minutes.

5. A Review Application was filed before learned Special Judge on 21.01.2019 to modify the timings of the ISD calls but the same was dismissed on the same date by observing that no modification was required in the impugned Order.

6. Hence, the present Petition has been filed against the Order dated 14.01.2019 and 21.01.2019 to correct the timing of the ISD call being permitted to the Petitioner, to 10 minutes.

7. **Status report has been filed on behalf of the State** wherein it is submitted that the 10 minutes ISD call per week had been allowed. Further, it was noted that since the family members may be located in different places, the foreign prisoner shall be allowed to make two calls on different numbers to his family members within that time



period of 10 minutes.

8. **Learned counsel on behalf of the Respondent No.1** further submits that his wife and children are residing in Paris while other relatives are in U.K. The learned ASJ considering the difference in the time zone and the totality of the circumstances, had rightly permitted 15 minutes call duration which does not suffer from any infirmity.

9. **Learned ASC on behalf of the State** in his rejoinder submissions states that the Circular had been referred by the learned ASJ in the impugned Order despite which 15 minutes call duration has been granted. Immediately thereafter a Review was sought though the same also did not find any merit with the learned ASJ.

10. Submissions heard and Record perused.

11. The Office Circular of the Director General of Prisons dated 27.01.2017 provides that in continuation of earlier Standing Order No.7 dated 24.05.2011 to provide telephone facility to foreign national prisoners of 10 minutes ISD call per week through virtual card calling. This has been reaffirmed in subsequent Circulars. It has further been clarified that though earlier call on only one number was permitted but subsequently, it has been modified to the calls on two numbers though the duration was continued to be of 10 minutes.

12. From these office Circulars, it is evident that the Circulars and Standing Orders have been taken out by the Jail Authority to maintain discipline and should not be flouted unless exceptional circumstances are shown. The Respondent No.1 herein is a foreign national prisoner and has not shown any circumstances which are unique to him which could have warranted increased duration of the phone calls.



13. The impugned Order dated 21.01.2019 is hereby modified to say that the call duration shall be 10 minutes instead of 15 minutes.

14. Petition is accordingly disposed of.

NEENA BANSAL KRISHNA, J

FEBRUARY 6, 2025/rk