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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 1851/2023 & CRL.M.A. 29290/2024

ASADULLAH AKHTAR

.....Petitioner

Through: Mr. M. S. Khan, Mr. Prashant
Prakash and Ms. Quasar Khan,
Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr.
Sunil, Advocate for UOI.
Mr. B. B. Pathak, ASP with Ms.
Shilpa Singh, Special PP, Mr.
Shantanu Singh Chandel and Ms.
Priyam Agrawal, Advocates for NIA.
Mr. Sanjeev Bhandari, ASC with Mr.
Arjit Sharma and Mr. Nikunj Bindal,
Advocates for the State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

30.04.2025

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1. The present writ petition, as amended, seeks the following prayers:

"1. Issue a writ of Certiorari/ Mandamus or any other appropriate writ, order, or direction whereby quashing / modifying the impugned Order dated 05.09.2022 passed by the Central Government under Section 268 of the Cr.P.C. to the effect that the petitioners be moved out of Delhi prison and be shifted to Central Prison Hyderabad to enable them to prosecute their appeal pending in the Hon'ble High Court of Telangana;

2. Issue a writ of Certiorari/Mandamus or any other appropriate writ/ order/ or direction whereby whenever there are proper warrants issued by any of the Special Courts, the Petitioners shall be moved out of Central Jail, Tihar and be produced there for attending the court proceedings;

3. Pass any further or alternative order(s) as this Hon'ble Court may deem fit and just in the facts and circumstances of the present case."



2. The principal grievance initially raised pertained to the Petitioners' request to be transferred to Central Prison, Hyderabad, to enable them to effectively prosecute their appeal before the High Court of Telangana. It was contended that the impugned order dated 05th September 2022, passed by the Central Government under Section 268 Cr.P.C. operated to the detriment of this right.

3. However, during the pendency of this petition, the said appeal came to be dismissed by the High Court of Telangana *vide* order dated 08th April, 2025. This development, as confirmed by Mr. M. S. Khan, counsel for the Petitioners, renders the first prayer infructuous.

4. Nonetheless, Mr. Khan presses the second limb of relief, submitting that the Petitioners are required to be produced in person before various Special Courts where trials are pending. He submits that their non-production is leading to undue delay in the conclusion of proceedings, not only *qua* the Petitioners, but also in respect of their co-accused. In support of this contention, reference is made to proceedings arising from FIR No. 166/2008, where the examination of a key prosecution witness had to be deferred owing to the inability to conduct physical identification of the accused. The relevant portion of the judicial record dated 06th April, 2024 reads as under:

"PW 282 DCP Manishi Chandra is present. He is partly examined-in-chief. His further examination-in-chief is deferred for want of physical identification of accused Asadullah Akhtar and Ahmed Siddhibappa."

5. It is urged that this is not an isolated instance, and that multiple hearings have been rendered unproductive for want of physical production of the Petitioners, despite issuance of appropriate production warrants.



6. Per contra, Ms. Shilpa Singh, counsel for the National Investigation Agency,¹ submits that the Petitioners are classified as high-risk prisoners, and their transportation entails considerable logistical and security arrangements, involving significant public expenditure. She further states that appropriate steps are being taken to facilitate the Petitioners' presence *via* video conferencing, wherever permissible, so that trial proceedings may progress without avoidable delay.

7. Having considered the submissions advanced, this Court finds merit in the submission made on behalf of the NIA. While the concerns raised by the Petitioners regarding trial delay are not unfounded, it is equally important to ensure that courtroom security, logistical practicality, and institutional resources are not overburdened without compelling necessity. In this backdrop, the Court directs that the presence of the Petitioners before trial courts, whether in Delhi or in any other part of the country, shall be ensured through video conferencing, unless their physical presence is specifically mandated by the trial court for a particular purpose. The concerned Jail Superintendents shall make all requisite arrangements for securing video link facilities, and the prosecuting agencies shall ensure that proceedings are not stymied on account of avoidable absence of the accused.

8. Disposed of, along with pending applications.

9. Copy of this order be sent to Jail Superintendent for necessary information and compliance.

SANJEEV NARULA, J

APRIL 30, 2025/d.negi

¹ "NIA"