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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 2954/2025 & CRL.M.A. 13127/2025**
STATE OF NCT OF DELHIPetitioner

Through: Mr. Tarang Srivastava, APP.

versus

MANSOOR ASGHAR PEERBHOYRespondent
Through: Mr. Mehmood Pracha, Mr. Sanawar,
Mr. Kshitij Singh, Mr. Nujhat
Naseem, Mr. Chirag Verma, Mr.
Sikander rana and Ms. Sadiya Sultan,
Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
11.07.2025

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1. The State challenges order dated 12th February, 2025¹ passed by ASJ-02, New Delhi District, Patiala House Courts, Delhi, granting E-Mulakat facility to the Respondent, an under-trial prisoner in FIR Nos. 166/2008, 418/2008, 419/2008, 130/2008 and 293/2008 registered at P.S. Special Cell under Sections 121, 121a, 123, 302, 307, 427 and 120-B of the Indian Penal Code, 1860,² as well as Sections 3, 4 and 5 of the Explosive Substances Act, 1908 and Sections 16, 18, 2, 20 and 23 of the Unlawful Activities (Prevention) Act, 1967³.

2. The relevant portion of the impugned order reads as under:

¹ "the impugned order"

² "IPC"

³ "UAPA"



“Considering the totality of circumstances, this Court is of the opinion that this matter pertains to the year 2008 and since the day of his arrest, accused 1s in judicial custody in the present case. In Mumbai case, he has already been granted bail. The punishment is way back of the year 2023. The family of applicant/accused is living in Pune, Mumbai and not able to CRL.M.C.-2954-2025 32 come for physical mulaqat.

Concerned Jail Superintendent is directed to arrange for emulaqat of applicant / accused Mansoor Asghar with his family atleast for twice in a month. Accused is directed to communicate in Hindi language only with his family members. The concerned Jail Superintendent is also at liberty to get the communication recorded for security purposes, if any.

With these observations, the application of accused Mansoor Asghar Peerbhoy is disposed off accordingly.

Copy of this order be sent to concerned Jail Superintendent for necessary compliance.

List the present matter for PE on 13.02.2025.

PW285 SPI Nandkumar Maruti Gopale has already been summoned for 13.02.2025.

IO/Pairvi officer is directed to ensure the presence of witnesses on the dates fixed.

As prayed, accused Hakim is allowed to appear through VC.

Copy of this order be sent to concerned Jail Superintendent, Jaipur Jail to produce accused Mohd. Saif through VC on the date fixed.”

[Emphasis supplied]

3. The State contends that the Trial Court exceeded its jurisdiction by directing the grant of E-Mulakat facility to the Respondent. It is emphasized that the Respondent is not an ordinary under-trial prisoner but a high-risk accused facing serious charges under the UAPA, the Explosive Substances Act, 1908, and multiple provisions of the IPC, relating to offences against the State and acts of terrorism. Moreover, the Respondent has been classified as a high-risk inmate due to his history of misconduct within the jail, including misbehaviour with prison staff and attempts to influence or radicalize other inmates. He has been kept under strict surveillance and segregated to prevent him from engaging in unlawful activities from within prison confines.



4. The State further emphasizes that under Rule 631 of the Delhi Prisons Rules, 2018⁴, the Jail Superintendent is empowered to consider requests for E-Mulakat by evaluating factors such as the inmate's jail conduct and their involvement in criminal cases. In support of this submission, reliance is placed on the following clarifications issued *vide* circular dated 22nd April, 2024, issued by the Prison Headquarters, Tihar:

“In order to bring uniformity in all the prisons of Delhi regarding extension of the Inmate Phone Call Facility as well as e-mulakat facility to the inmates, following clarifications needs to be adhered to as part and parcel of the issued circulars:

1. That Inmate Phone Call Facility (only audio facility) can be permitted to the prisoners covered CRL.M.C.-2954-2025 14 under Rule 631 of Delhi Prison Rules, 2018 and also for those who are lodged in High Security Ward, only after obtaining NOC/approval from the concerned prosecuting agencies. The Jail Superintendent shall provide the landline numbers/mobile numbers furnished by the inmate to the prosecuting agency for their NOG/approval of such facility from jail.

2. That e-mulakat facility (Audio-cum-Video facility) is the extension of Inmate Phone Call Facility and which is actually at a higher pedestal and therefore more scrutiny or precaution is required for keeping in view of security threat or any other misuse of such facility by the inmate or by his/her visitor through e- mulakat. It is therefore necessary to obtain NOC from the concerned prosecuting agencies before allowing such facility to the prisoners falling under category as mentioned in Rule 631 of Delhi Prison Rules, 2018....”

5. Additionally, an addendum to the circular dated 22nd April, 2024, further clarified that the E-Mulakat and/or telephone facility shall be permitted strictly upon receipt of an NOC from the investigating agencies. The relevant portion of the Addendum to Circular dated 22nd April, 2025, reads as follows:

- “(a) All new prisoners applying for E-Mulakat and/or Telephone Facility, as on or after 22.04.2024, should be allowed such facility only after receipt of NOC from the Investigating Agency.*
- (b) The prisoners who are already availing the facility of E-Mulakat /*

⁴ “DPR”



Telephone Mulakat on or before 22.04.2024, the said facility will remain in force till the NOC from the Investigating Agencies is obtained. Superintendent Jails should enter into correspondence immediately in respect of all such prisoners where NOCs are not obtained and efforts should be made to procure the NOCs from the Investigating Agencies within ten days. The facility shall be dispensed with in case of any misconduct committed by such prisoner or permission denied by the Investigating Agency.

Rest of the directions contained in the above cited Circular dated 22.04.2024 shall remain in force.”

6. It is also pointed out that, as per the comments received from the ACP, Special Cell, the Office of the Superintendent of Prisons was explicitly advised to deny the NOC for the Respondent. This recommendation was based on the Respondent's alleged involvement in the 2008 serial blasts, which resulted in significant loss of life and property. The State apprehends that permitting the Respondent to avail such communication facilities may enable him to engage in conspiracies or orchestrate further unlawful activities, thereby posing a grave threat to national security.

7. Relying on the aforementioned circular and the explicit denial of the NOC, the State submits that this critical aspect was not examined by the Trial Court while passing the impugned order, thereby rendering it unsustainable.

8. Heard. Although there remains a lack of clarity as to whether the denial of the NOC was specifically brought to the notice of the Trial Court at the stage of considering the Respondent's application for the E-Mulakat facility, nonetheless, it is not disputed that the Respondent had been availing of the E-Mulakat facility until 2023. The objection by the State opposing the request, as noted in the impugned order was primarily premised on the subsequent punishment imposed on the Respondent due to his jail conduct. To that extent, the impugned order does reflect that the Trial Court duly



deliberated upon the objections raised by the Public Prosecutor as well as the representative (paikar) of the Investigating Officer. The relevant portion of the order reads as follows:

“Reply has already been received from the concerned Jail Superintendent to the application of accused Mansoor Asghar Peerbhoy seeking necessary directions for allowing him VC meeting with his family once in a week.

As per the reply of concerned Jail Superintendent, besides the present case, he is also involved in case FIR No. 152/2008 of P.S CID Mumbai. The accused also has one Jail punishment on 20.09.2023 for misbehaving with jail staff and hanging cloths/curtains which tend to seclude prisoners from the sight of others to do unlawful activities within jail premises.

On this count, proxy counsel for accused submits that there is no misconduct on the part of the accused and he put curtain only when he was taking bath and hence, there was no ill intention on the part of the accused and the said punishment is of the year 2023 and in another case pending in Mumbai, he has already been granted bail. It is prayed by Ld. proxy counsel that e-mulakat facility may kindly be provided with his family members who are residing in Pune and it is not possible for them to come to Delhi from Mumbai for every physical mulakat with the accused. It is further submitted that if not possible then this facility may be provided for twice in a month.”

9. Nonetheless, the State’s objection premised on the denial of the NOC has been duly considered by this Court. It is noted that this denial is rooted in the serious nature and gravity of the offences alleged against the Respondent, particularly his involvement in the 2008 serial blasts, for which he is currently facing trial under the FIR in question. However, at this stage, it is essential to underscore that the limited question before this Court pertains solely to the grant of E-Mulakat facility and does not involve any adjudication on the merits of the pending criminal proceedings. On this point, it is pertinent to note that this Court, in W.P.(C) 10959/2024 by order dated 1st October, 2024 titled **Masasasgong AO vs. Government of NCT of Delhi & Anr**, issued directions allowing such access to E-Mulakat services,



albeit subject to safeguards. Additionally, reference may be made to the decision in Crl. A. 879/2024 titled *Wasim Akram Malik (Presently in JC) v. National Investigation Agency (NIA)*, decided on 18th February, 2025, wherein this Court allowed the E-Mulakat facility subject to stringent conditions, although in that instance, it was premised upon a no-objection certificate granted by the NIA.

10. The Court is mindful of the State's legitimate concerns regarding security and the potential misuse of communications by an undertrial implicated in serious and grave offences. However, the Trial Court has already imposed stringent conditions, including permitting the State to record the conversations and directing the Respondent to communicate only in Hindi. Thus, the access granted to the E-Mulakat facility is accompanied by adequate safeguards. In light of the above, this Court is of the view that the Respondent can be accorded the benefit of the E-Mulakat facility, having regard to the right of an under-trial prisoner to maintain contact with close family members. Nonetheless, to further mitigate any apprehended risks, this Court deems it appropriate to impose additional restrictive conditions.

11. Accordingly, in order to allay the concerns of the State and ensure that the facility is not misused, the impugned order allowing E-Mulakat is subjected to following additional conditions:

- (i) The Respondent shall furnish the contact numbers of his mother and other family members, with whom he wishes to talk, to the concerned Jail Superintendent, within a period of one week from today;
- (ii) The Jail Superintendent shall verify the identity and the phone numbers of such persons and may conduct any additional verification deemed necessary. The results of such verification shall be kept on record;



(iii) The E-Mulakat facility shall thereafter be permitted to the Respondent strictly in accordance with the Delhi Prisons Rules, 2018 and the relevant circulars dated 26th December, 2022, 22nd April, 2024 and 22nd May, 2024, subject to the above conditions and those stipulated in the impugned order.

12. With the above directions, the present petition stands disposed of along with pending application(s). The interim order dated 30th April, 2025 stands vacated.

SANJEEV NARULA, J

JULY 11, 2025

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