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

+ **W.P.(CRL) 1795/2025**

MOHD AYOUB MIR MOHA

.....Petitioner

Through: **Mr. Sarthak Maggon, Advocate.**

versus

THE STATE OF NCT OF DELHI & ANR

.....Respondents

Through: **Mr. Amol Sinha, ASC for the State along with Mr. Kshitiz Garg, Mr. Ashvini Kmar, Mr. Nitish Dhawan, Mr. Manan Wadhwa, Mr. Anshul Sharma and SI Ravi Dahiya, Special Cell, Delhi Police.**
Mr. Rushab Aggarwal, Standing Counsel along with Mrs. Riddhima Aggarwal, Mr. Japnish Singh Bhatia, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 12.12.2025

CRL.M.A. 37242/2025 (Seeking directions)

1. This application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeks directions to Respondent No. 1 to furnish a response and explain the delay in transferring the Petitioner from Kot Bhalwal Jail, Jammu to Central Jail, Srinagar, in terms of Rule 688 of the Delhi Prison Rules, 2018.



2. With the consent of counsel for the parties, the main petition is taken up on Board for final disposal, today itself.

3. The Application is disposed of.

W.P.(CRL) 1795/2025 (seeking transfer)

4. This petition under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeks transfer of the Petitioner from Kot Bhalwal Jail, Jammu to Central Jail, Srinagar. The transfer is sought primarily on account of the Petitioner's serious medical condition, which necessitates specialised and continuous medical care.

5. Mr. Sarthak Maggon, counsel for the Petitioner, submits that the Petitioner is undergoing treatment for gastric adenocarcinoma and is advised surgery. Although the procedure may be undertaken at Jammu, it is urged that the post-operative phase would require sustained familial support and supervision, which, according to the Petitioner, is not realistically feasible since his family is based in Srinagar. It is contended that this request is neither contrived nor merely preferential, but is founded on the doctor's opinion that recovery and rehabilitation would be materially assisted by the consistent presence of close family during the immediate post-surgical period. It is emphasised that the Petitioner's daughter is disabled and the only male family member who can meaningfully attend to him is his son-in-law, who has his own dependents and would be unable to remain in Jammu for extended periods. On this premise, reliance is placed on Rule 667(2) of the Delhi Prison Rules to contend that a transfer is warranted in the interest of the Petitioner's welfare and rehabilitation.

6. It is further urged that the Petitioner is facing trial in FIR No. 08/2018 registered at P.S. Rainawari, and therefore, in terms of Rule 668 of the Delhi



Prison Rules, he ought to be lodged at Srinagar so that he is able to effectively brief counsel and defend himself. It is also argued that the pendency of the said case prejudices his ability to seek parole or premature release. Mr. Maggon explains that the difficulties in communication and briefing are not theoretical. According to him, co-accused were granted bail much earlier, while the Petitioner, despite being unwell and undergoing intensive treatment, could not meaningfully engage counsel and obtained bail only later. It is lastly suggested that the pending prosecution is vexatious and is being utilised as a lever to deny the Petitioner liberty and prison concessions.

7. Mr. Amol Sinha, ASC for the State, opposes the transfer. He submits that the Petitioner is receiving the best possible medical care at Government Medical College, Jammu, and that the State continues to stand by its assurance that treatment, including specialist consultation and hospitalisation, shall be extended without interruption. He also places reliance on the directions already issued by this Court while declining parole to the Petitioner in W.P.(Crl.) 1630/2025, particularly the finding that security concerns associated with the Petitioner's presence in Srinagar could not be ignored, and the direction to the State to provide specialised treatment as per the opinion of the doctors.

8. The Court has considered the rival submissions. The Petitioner's diagnosis and the seriousness of his medical condition are not in dispute. Equally, the Court remains mindful that incarceration does not extinguish the right to health and dignity, and the prison administration is under a continuing obligation to ensure timely and effective medical treatment, including post-operative care, nursing assistance, and necessary follow-up.



9. The central question, however, is narrower. It is whether the Petitioner has made out a legal basis to compel a transfer specifically to Central Jail, Srinagar, in preference to the present place of custody.

10. The premise that family convenience, by itself, confers a right to be transferred to a particular jail cannot be accepted as an absolute proposition. Prison administration, classification and transfer are matters governed by statute and rules, and must also account for institutional discipline, security assessment, and the feasibility of safe custody. Courts are slow to substitute prison administration's decision with a direction to house a prisoner at a chosen location, unless there is clear illegality, manifest arbitrariness, or demonstrated denial of basic rights.

11. The reliance on Rule 667(2) and Rule 668 of the Delhi Prison Rules also does not advance the Petitioner's case at this stage. First, these provisions do not operate as an enforceable mandate that a prisoner must be lodged at the location of his family or at the place where a case is pending. At the highest, they reflect administrative considerations relevant to transfers in appropriate cases, but they do not obliterate the concerns such as security risk, prior conduct, or intelligence inputs. Second, the Petitioner is in custody in the context of Jammu and Kashmir, and the transfer sought is inter-jail within that jurisdiction. The applicability of Delhi Prison Rules, as a binding basis for such a transfer, is itself doubtful, unless specifically adopted or applied by the competent authority in the governing framework. In any event, even assuming such principles are looked at for guidance, they do not create a right to insist on Srinagar as the only permissible destination. The argument premised on defence prejudice in FIR No. 08/2018 also does not justify the relief in the form sought. The Petitioner has not placed any



concrete material to show that he has been unable to meet counsel, that production warrants are being frustrated due to custody at Jammu, or that the trial court has declined video-conferencing or other modes of interaction. The present criminal process permits production through video conference where appropriate, and courts can ensure that the accused has adequate opportunity to consult counsel. The question whether the said case is vexatious, or whether custody in that case has impacted parole or remission, are matters to be canvassed in appropriate proceedings before the competent court. They cannot, without more, become a basis to direct a transfer to a particular jail contrary to security assessments.

12. Pertinently, the present request substantially revisits what was earlier urged, and declined, in W.P.(Crl.) 1630/2025. In that petition, this Court had already undertaken the necessary balancing exercise between humanitarian considerations arising from the Petitioner's medical condition and the security concerns specifically associated with Srinagar. The record there included references to the circumstances that led to the Petitioner's transfer from Central Jail, Srinagar to Kot Bhalwal Jail, Jammu, and the apprehensions articulated on the basis of prior conduct and intelligence inputs. The Court explored whether relief could be structured in a manner that addressed medical needs without relocating the Petitioner to Srinagar. However, since the Petitioner insisted on being housed only in Srinagar jail, that option was not deliberated any further. The prayer for parole was, therefore, declined. At the same time, the earlier order ensured that the Petitioner was not left without protection on the medical front. It directed that the Petitioner shall continue to receive the best possible medical care at Government Medical College, Jammu.



13. In that backdrop, the Petitioner's insistence on Srinagar as the "sole solution" cannot be accepted as determinative. Humanitarian considerations cannot be invoked to compel an arrangement that the competent authorities, on the material available, apprehend may compromise institutional security, particularly when the Petitioner's medical needs can be addressed without relocating him to Srinagar.

14. The Petitioner's submission about post-operative care, though it warrants empathy, does not convert into a legal compulsion to transfer him to Srinagar. The State bears the responsibility to ensure that post-operative care is not reduced to a hollow formality. That obligation can be fulfilled through hospitalisation at Jammu, availability of prison escort, and necessary nursing and specialist support as advised by the treating doctors. If family presence is medically recommended as part of counselling and recovery support, the authorities can consider regulated visitation in accordance with prison rules.

15. In short, the touchstone is adequacy of treatment. Since the Petitioner has not demonstrated that treatment at Jammu is unavailable, inaccessible, or so deficient as to endanger his health, the prayer for transfer to Srinagar, premised largely on preference and convenience, cannot be granted in the teeth of security concerns already recorded. At the same time, the Court reiterates that Petitioner's medical treatment, including surgery and post-operative care, must be handled with urgency and diligence.

16. Accordingly, the Petition is disposed of with the following directions:
(i) The Superintendent, Kot Bhalwal Jail, Jammu shall ensure that the Petitioner is produced for all scheduled medical consultations and treatment at Government Medical College, Jammu, and that the advised course of



treatment, including surgery if recommended, is undertaken without avoidable delay.

(ii) The jail authorities shall ensure adequate post-operative care, including nursing support and follow-up, as advised by the treating doctors.

17. The next date of hearing already fixed stands cancelled.

SANJEEV NARULA, J

DECEMBER 12, 2025/MK