

ITEM NO.50

COURT NO.6

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s). 629/2023

UMAR ANSARI

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(FOR ADMISSION and IA No.253582/2023-EXEMPTION FROM FILING O.T.)

Date : 15-12-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE SANJAY KAROLFor Petitioner(s) Mr. Kapil Sibal, Sr. Adv.
Mr. Nizam Pasha, Adv.
Mr. Lzafeer Ahmad B. F., AOR
Mr. Sidharth Kaushik, Adv.
Ms. Aparajita Jamwal, Adv.

For Respondent(s) Mr. K.M.Natraj, Ld. ASG

UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. Kapil Sibal, learned Senior Counsel appearing for the petitioner.

2. The petitioner is the son of Mr. Mukhtar Ansari who upon his conviction for murder, is currently lodged in the Banda Jail, Uttar Pradesh. He is facing prosecution in other cases also. The concern raised in this petition is towards the safety and security of detained person even within the jail premises. In fact, the prayer in the Writ Petition is to transfer the said accused from Banda Jail, Uttar Pradesh to any jail outside the State of Uttar Pradesh.

3. Mr. Sibal, refers to the fact that three of the co-accused in the case while being in custody were gunned down in August, 2020 (Mr. Rakesh Pandey), 09.07.2018 (Mr. Prem Prakash Singh @ Munna Bajrangi) and April, 2006 (Mr. Firdaus @Javed).

4. Learned Senior Counsel in the context would refer to the order passed by the High Court's Division Bench on 03.05.2023 (Annexure P-12) in the Criminal Misc. Writ Petition No.7925 of 2021 (filed by the wife of the detinue). In that case, the following order was passed:-

"We accept the averments made in the counter affidavit on behalf of the State and we also request the Director General of Police, U.P., respondent no. 3 to ensure the safety of the husband of the petitioner as he is apprehending threat to his life in the jail, where he is incarcerated. Full security shall be given to the husband of the petitioner while shifting him from one jail to another and while producing him before any Court from jail and on the way or any other place. Media person would not be permitted to interview him. He would be accompanied by the police personnel during his ingress and egress from jail This order is being passed seeing the recent episode which occurred in the State of Uttar Pradesh, wherein in the garb of media persons some criminals had killed two under trial prisoners, who were in the custody of the Police Personnel, which matters are pending before the Apex Court. So as to ensure the safety of the accused this restriction is ordered.

Though we are not against media taking interview of the accused persons but looking to the recent episode this restriction would be in the interest of the under trial prisoner for their safety and security.

With these observations and the averments made in the counter affidavit that full and proper proper security is being given to the husband of the petitioner, this petition stands allowed and the prayers are granted."

5. Even after the above judgment on 03.05.2023 by the High Court, one other co-accused (Sanjeev Maheshwari @ Jeeva) was shot dead inside a courtroom in Lucknow on 08.06.2023, while he was being produced from jail custody in the Court.

6. Highlighting the above custodial deaths, Mr. Sibal would also refer to the speech made on 30.11.2023 (Annexure P-18) which speaks of a direct threat to kill the detinue, who is lodged in the Banda Jail.

7. Mr. K.M. Natraj, Ld. ASG on instructions, appears for the State of Uttar Pradesh. He points out that the petitioner is currently lodged in Banda Jail in pursuant to the order passed by this Court on 26.03.2021 in the Writ Petition (Criminal) No. 409/2020 (Annexure P-9). The ASG next submits that the High Court on 03.05.2023 had already ordered for the protection of the jailed detinue.

8. On the plea for transfer of the detinue to a jail outside the State of Uttar Pradesh, Ld. ASG prays for time to obtain instructions. He, however, assures that necessary augmentation of security as needed will be made, to ensure that no harm is caused to the detinue (Mr. Mukhtar Ansari), while in custody.

9. Learned ASG should also obtain instructions on the current status of the trial in the concerned cases.

10. List the matter on 16.01.2024.

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)