

IA No.02/2021 in SC No.212/2021 State V/s Umar Khalid	SC No.212/2021 State V/s Khalid Saifi
Both in case FIR No.101/2020 U/s 109/114/147/148/149/153-A/186/212/353/395/427/435/436/452/ 454/505/34/120-B IPC r/w Sections 3/4 PDPP Act & Sections 25/27 Arms Act PS: Khajuri Khas	

06.05.2021

THROUGH WEBEX VIDEO CONFERENCING

Present: Shri Manoj Chaudhary, Ld. Special PP for the State.

Shri Amit Prasad, Ld. Special PP for Special Cell in case FIR No.59/2020, PS Crime Branch alongwith Addl. DCP Alok Kumar.

Inspector Anand Swaroop, I/c Lock-up, Karkardooma District Courts for DCP, 3rd BN.

COMMON ORDER

Pursuant to the directions passed by this Court vide order dated 22.04.2021, reply(ies) have been filed by Jail Superintendent(s) concerned; DCP (Special Cell) and DCP, 3rd BN, Delhi Police.

2. The relevant extracts of the replies received in the matter from the aforesaid authorities are re-produced hereunder:

Relevant extract of reply dated 04.05.2021, received from Superintendent, Central Jail No.12, Mandoli Jail qua accused Khalid Saifi

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1. Khalid Saifi S/o Sh. Abdul Latif is lodged in this jail since 27.02.2020 under FIR No.101/2020 along with other FIRs 44/2020 and 59/2020.

2. This jail is not a High Risk jail. No High Risk cell/barrack is available in this jail. All the UTPs including UTP Khalid Saifi S/o Sh. Abdul Latif are lodged in General Ward only.

3. Rule No.1402 to rule no. 1422 of Delhi Prisons Rules 2018 clearly specify about high risk prisoners and detenues.

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**Relevant extract of reply dated 23.04.2021, received from
Superintendent Jail, Central Jail No.2, Tihar qua accused Umar Khalid**

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In this regard, it is respectfully submitted that accused Umar Khalid s/o SQR Iliyas is under judicial custody in this jail in abovementioned case. As per record he has been granted bail in this case by this Hon'ble Court vide order dated 15.04.2021, however, the bail bond has not yet been received in this office.

It is further submitted that the said accused is also facing trials in 02 more cases. In past, he had raised apprehension regarding his safety and security during court production and the Hon'ble Court of Sh. Dinesh Kumar, Ld. CMM(NE), Karkardooma Court, vide order dated 24.03.2021, had passed directions to this office as well as to DCP, DAP-III Bn. to take necessary steps to ensure his safety and security (copy enclosed). In compliance of said orders, this office had requested DCP 3 Bn. Delhi Armed Police to do needful in accordance with the guidelines/instructions prescribed in different standing orders as well as in Delhi Police Rules, for safety and security of the said UTP as and when he go out of jail, vide letter no. 1723 dated 25.03.2021 (copy enclosed).

It is further submitted that the said accused had also made request before the Hon'ble Court of Sh. Amitabh Rawat, Ld. ASJ (Shahdara), Karkardooma Court to produce him in court with other co-accused persons in this case and not with High Security Prisoners. To which the Hon'ble Court has passed direction to do the needful, if possible (copy enclosed). The said order was also forwarded by this office to DCP, 3 Bn. DAP for further necessary action vide letter no. 1780 dated 30.03.2021 (copy enclosed). As concerned producing the said accused in Handcuff (from Back), in this regard it is submitted that using/producing an accused in handcuff does not falls under the jurisdiction of jail administration.

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**Relevant extract of reply dated 06.05.2021, received from
Addl. DCP (Special Cell) qua both the accused persons**

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It is submitted that above mentioned case was registered at PS Crime Branch, New Delhi and is being investigated by SIT, Special Cell at Lodhi Colony, New Delhi. Applicant/accused namely Md. Khalid s/o Abdul Latif and Umar Khalid s/o S.Q.R. Illyas were arrested in the above mentioned case on 21/03/2020 and 13/09/2020 respectively and after investigation they both were sent to judicial custody on 05/04/2020 and 24/09/2020 respectively. Presently, both above named accused are in judicial custody in this case and case is pending trial before the Court of Sh. Amitabh Rawat, Ld.ASJ-03, Shahdara, Karkardooma Courts.

It is further submitted that no such application, seeking to produce both the above named accused in 'handcuffs in both hands from back side' is filed by the undersigned before any court or before any other authority.

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**Relevant extract of reply dated 26.04.2021, received from
DCP, 3rd BN qua both the accused persons**

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It is humbly submitted that in the aftermath of attempt to free UTP Kuldeep @ Fajja from the custody at GTB Hospital on 25.03.2021 by armed assailants, it has been decided to request the concerned court for permission to handcuff the high risk/ sensitive UTPs who are prone to escape or attempts may be made by their gang members to free them. As part of the exercise, the current application for handcuffing UTPs Umar Khalid and Khalid Saifi was moved for the consideration of Hon'ble Court.

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3. A joint reading of the stand(s) taken by the aforesaid authorities in their respective replies show that the material on the basis of which the aforesaid applications were filed is devoid of merits. The Delhi Prison Rules are silent about the handcuffing and putting fetters upon the prisoners. The accused persons, who are sought to be produced in fetters and handcuffs are admittedly not previous

convicts. They are not even gangsters. The applications appear to have been filed in a mechanical manner, without application of mind by the high echelon of Delhi Police and prison authority.

4. Be that as it may, since now fresh Covid protocols have been notified in Delhi and even the minutes of High Powered Committee dated 04.05.2021 are in place, now the accused persons are not being produced in Court physically, therefore, these application(s) at this stage are not required.

5. The applications are accordingly dismissed as not required at this stage.

6. A copy of this order be sent to Commissioner of Police, Delhi Police through electronic mode.

(VINOD YADAV)
ASJ-03 (NE)/KKD COURTS/06.05.2021