

Court No. - 9

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Case :- MISC. BENCH No. - 12046 of 2021

Petitioner :- Anshad Badarudheen & Anr.

Respondent :- State Of U.P. Thru. Prin. Secy. Home & Ors.

Counsel for Petitioner :- Sheeran Mohiuddin Alavi, Tahir

Counsel for Respondent :- G.A.

Hon'ble Devendra Kumar Upadhyaya, J.

Hon'ble Ajai Kumar Srivastava-I, J.

Heard Sri S.M.Alvi, learned counsel for petitioners and Sri S.N.Tilhari, learned Additional Government Advocate appearing for the State-respondents.

These proceedings under Article 226 of the Constitution of India have been instituted by the petitioners with the prayer that the respondents may be directed to provide appropriate facilities of interaction/interview of the petitioners with their family members through Video Conferencing or cellular communication i.e. telephonic communication. Further prayer made in this petition is that the respondents may also be directed to arrange appropriate facility of interaction/ interview of the petitioners with their legal Advisors/Advocates.

The petitioners are under trials and presently lodged in district jail, Lucknow. They are facing trial emanating from investigation conducted in respect of First Information Report dated 16.02.2021 lodged at Case Crime No.004 of 2021, under Sections 120-B, 121-A of IPC, Section 3 and 5 of Arms Act, Sections 3, 4, 5 of Explosives Substance Act, 1908 and Section 13, 16, 18, 20 of Unlawful Activities (Prevention) Act, Police Station ATS Gomti Nagar, Lucknow.

It appears that occasion to file this petition/cause of action has accrued to the petitioners on account of the extraordinary situation caused by the present pandemic. Visit of inmates by the family members/lawyers and their group activities have been suspended. However, as submitted by learned Additional Government Advocate, taking appropriate and adequate precautions to check the spread of pandemic, communication of the prisoners with outside world is though permitted, however it is being monitored for maintaining the safety and security and for the said purpose, certain guidelines are available.

Sri S.N.Tilhari, learned A.G.A. has submitted that pursuant to the directions issued by Hon'ble Supreme Court vide its order dated 23.03.2020 passed in Suo-Motu Writ Petition (C) No.

1/2020 In Re: CONTAGION OF COVID 19 VIRUS IN PRISONS, a High Powered Committee has been constituted in the State which is chaired by the Executive Chairman of the U.P State Legal Services Authority. He has further stated that the said High Powered Committee in its meeting held on 03.04.2020 has issued certain guidelines to be followed for various purposes, including for the purposes of permitting the communication of the prisoners with outside world. Sri Tilhari also states that guidelines issued pursuant to the decision taken by the High Powered Committee in its meeting dated 03.04.2020 has taken into account the fact that on account of the present pandemic visit of outside persons in the prisons has been suspended. The guidelines provide that any interaction of the prisoners with the outside world will be permissible through Video Conferencing in urgent situations for court purpose alone. So far as the interaction with the family members and any other person is concerned, guidelines provide that such interaction shall be permissible through telephone, that too, in cases of emergency. He has also referred to certain decisions taken by the High Powered Committee in its meeting held on 09.06.2021. As per said decision, certain guidelines have been issued which *inter alia* provide that communication of the prisoner with outside world shall be monitored from the point of view of safety and security. The guidelines further provide that from the point of view of safety and security such communication shall be recorded and genuine communication shall be liberally allowed.

In respect of interaction of prisoners with the legal Advisors/Advocates, Sri Tilhari, learned A.G.A. has referred to certain provisions contained in U.P. Jail Manual. Specifically referring to paragraph 457-D of U.P. Jail Manual, Sri Tilhari has submitted that interview by a legal Advisor of the prisoner has to be arranged only on the satisfaction of the Superintendent of Jail concerned regarding genuineness of the requirement of such interview. He has further stated that paragraphs 697 to 708 of U.P. Jail Manual provide a procedure for making an application for the purposes of permitting interview of the prisoners with the legal Advisors/Advocates.

So far as personal interaction of the family members of the petitioners in this case is concerned, Sri Tilhari, on the basis of instructions received from the jail authorities, has submitted that such interaction will be permissible as per the extant guidelines telephonically and for the said purpose telephone number through which such conversation/interaction is to be permitted needs to be verified. He has further stated that the telephone numbers provided for the purposes of interaction with the family members of the petitioners are to be verified and in

this regard a letter was written by the Superintendent of Jail, Lucknow on 01.04.2021 to the Superintendent of Police of district concerned at Kerala from where the petitioners originally hail. He has further stated that pursuant to the said letter dated 01.04.2021, two reminders, the first on 06.04.2021 and again on 12.05.2021 have also been sent to the Superintendent of Police of the district concerned at Kerala, however, their response is still awaited and in absence of verification of the telephone numbers, the communication at the moment is not possible. He, on the basis of instructions received, has further stated that as soon as telephone number which is to be utilized for the purpose of communication of the petitioners with the family members is verified, interview of the prisoners with the family members shall be arranged.

In our considered opinion, statement of learned A.G.A. which he has made on the basis of instructions received from the jail authorities, answers the first prayer made in this petition.

As regards the second prayer made in this petition which relates to interaction/interview of the petitioners with their legal Advisors/Advocates, we permit the legal Advisor/Advocates of the petitioners to move appropriate application as per requirement of paragraphs 697 to 708 of U.P. Jail Manual. Once any such application is made, the Superintendent of Jail shall take a decision and record his satisfaction as required by the provisions contained in paragraph 457-D of U.P. Jail Manual. The decision which may be taken by the Superintendent of Jail in terms of paragraph 457-D of U.P. Jail Manual shall immediately be communicated to the legal Advisors/Advocates of the petitioners and if he records his satisfaction that interaction/interview being sought by the legal Advisors/Advocates is genuine, he shall permit the same as soon as possible.

No other issue has been urged in this petition.

The petition is thus **disposed of** in the aforesaid terms.

Order Date :- 25.6.2021

Renu/-