
(2019) 11 P&H CK 0043

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 43607 Of 2019

Dr. Mohit Gupta

APPELLANT

Vs

Additional Chief Secretary

RESPONDENT

Date of Decision : 06-11-2019

Acts Referred:

Citation : (2019) 11 P&H CK 0043

Hon'ble Judges : Amol Rattan Singh, J

Bench : Single Bench

Advocate : A.P. Singh, Geeta Chauhan, V.P. Singh, Surender Singh, Neeraj Poswal, Vinod Ghai, Abhishek Sanghi, Gurmeet Ram Rahim

Judgement

Amol Rattan Singh, J

1. So as to avoid repetition, the orders earlier passed by this Court giving the background of the petition and the relief sought therein and the contentions raised by learned counsel appearing on those dates, are being reproduced hereinunder:-

2. The order dated October 24, 2019 reads as follows:-

"By this petition, the petitioner, i.e. one Mohit Gupta, seeks a direction that the respondent-State and its functionaris produce the detainee/convict Gurmeet Ram Rahim Singh before this Court, and that any other appropriate order/direction as this Court may deem proper, may be issued.

It is contended therein that the petitioner and his lawyer, upon visiting the jail where the said convict is imprisoned (the Sunariya Jail, Rohtak), initially on 16.12.2017, were not allowed to meet the detainee, though the detainee had been released from his barrack to meet them, with the Superintendent of the jail having also refused to meet the petitioner and his lawyer.

It is further contended that on 13.11.2018 the petitioner came to know that the convict had requested the jail authorities and the Jail Minister for providing him

with the "phone facility" as was available to all other jail inmates, but the jail administration had denied that facility to him, as reported in a newspaper (upon which report the petitioner has obviously relied).

It has next been contended that for the past one year dozens of incidents of gang wars have been reported by the media, with no action taking against any jail authorities.

Thereafter, it has been stated that on 28.01.2019 the petitioner had written a letter to the Superintendent of the Sunariya Jail, Rohtak, with regard to a letter that was circulated and read out in a religious congregation at 'Dera Saccha Sauda', Sirsa, stating that the letter was sent by the convict from the Sunariya Jail, with the petitioner having asked the Jail Superintendent (in the petitioners' letter to the Jail Superintendent, as contended), that when the convict was not allowed to write letters to anyone, how could a letter be read out in public in his name.

The petition goes on in a similar way for a number of pages, which at this stage at least is not considered necessary to be reproduced, as one Ashok Kumar, who contends that he is a friend/follower of the 'Dera', has appeared and submits that since the petitioner is not present in person and even the counsel through whom the petition has been filed are all not available, the matter may be adjourned to a different date.

Even so, what has been reproduced hereinabove as regards the initial contentions made in the petition, has been considered necessary to so do, because there is a report of the Registry on the case file, stating that earlier a Criminal Writ Petition had been filed, seeking a writ in the nature of habeas corpus that the convict be produced before this Court; but with the petitioner having thereafter deleted the words "Habeas Corpus" and thereby having changed the nature of the petition, with the nomenclature now showing it to be a criminal miscellaneous petition.

It is also necessary to notice that Mr. Abhishek Sanghi, Advocate, has appeared and has submitted that he in fact he appears for Baba Gurmeet Ram Rahim Singh, who in fact does not wish to be brought to Court, and that the petition presently filed "is at best misconceived, or at worst, mischievous".

He has also sought to file a power of attorney in Court, which is shown to be carrying a thumb impression attested by the Deputy Superintendent, District Jail, Rohtak, said to be that of Gurmeet Singh son of Sh. Maghar Singh.

Since no notice of motion has been issued in any case in this petition, with neither the petitioner having appeared in person, nor counsel appearing for him having argued the matter, the instrument issuing a power of attorney has been returned to learned counsel, with the matter adjourned to 30.10.2019.

However, it is made clear that no request for an adjournment will be entertained on the next date of hearing."

3. The order of the next date, i.e. October 30, 2019, reads as follows, (though only that part as was recorded on 30.10.2019 itself is being reproduced, the first part of the order actually being a reproduction of the earlier order dated 24.10.2019):-

"Today, Dr. A.P. Singh, Advocate, appears for the petitioner (Dr. Mohit Gupta) and submits that (allegedly) in view of the various incidents that have taken place in Sunariya Jail, Rohtak, this petition has been filed for the purpose of determining the safety and security of the convict (Gurmeet Ram Rahim Singh).

Again today, Mr. Abhishek Sanghi, as also Mr. Harish Chhabra, Advocates, appear and have sought to file different instruments of power of attorney, stated to have been issued by Gurmeet Ram Rahim Singh from the Sunariya Jail, Rohtak, with his thumb impressions present on both instruments, and signatures on one instrument (in favour of Mr. Harish Chhabra, Advocate), duly attested under the stamp of the Deputy Superintendent, District Jail, Rohtak. The one in favour of Mr. Sanghi and Mr. Rajinder Sra, Advocates, is dated 23.10.2019 and the one in favour of Mr. Chhabra is dated 30.10.2019, though the signature of the Deputy Superintendent of the District Jail, on his stamp, is seen to be 'hand-dated' on 29.10.2019.

On query to Mr. Chhabra, Advocate, he submits that he had visited the jail yesterday, i.e. on 29.10.2019

He also submits that since the power of attorney was being submitted to this Court today, it has been dated 30.10.2019 (which ofcourse is not a proper explanation).

Be that as it may, Mr. Chhabra, Mr. Sanghi, as also Mr. Vinod Ghai, learned Senior Advocate, who seek to appear for the aforesaid Gurmeet Ram Rahim Singh, all submit that he does not wish any relief qua the present petition filed by Dr. Mohit Gupta, with Mr. Ghai further submitting that the petitioner has not been authorized by the convict (Gurmeet Ram Rahim Singh), to infact file this petition.

Mr. Ghai also submits that this petition has been filed by the petitioner only to 'gain popularity', with the matter reported in the press, and as per learned senior counsel, the petitioner (and the petition) actually "do not work in the interest of even the convict".

In rebuttal thereto, Dr. A.P. Singh, learned counsel for the petitioner, submits that vakalatnamas/ instruments of power of attorney having been issued in favour of counsel, does not necessarily mean that they are in context of the present case, even though both the vakalatnamas state, in printed form on the top part of the instrument, that they pertain to CRM-M-43607 of 2019, i.e. this very petition. He further submits that in view of the fact that a "dera follower" was murdered in the high security Nabha Jail, District Patiala (Punjab), the petitioner is apprehensive with regard to the life of the convict lodged in Sunariya Jail, Rohtak (Haryana), i.e. Gurmeet Ram Rahim Singh.

Without making any comment whatsoever on even the maintainability of this petition in the face of the fact that three learned counsel have submitted instruments of power of attorney shown to be issued in their favour by Gurmeet Ram Rahim Singh (as per the signature on one of them and thumb impressions on both of them), and have stated that the convict is not interested in any relief sought at the hands of the petitioner, with even the petition number having been printed on the top of the vakalatnamas, however, simply because the counsel is even doubting the authenticity of the vakalatnamas issued in favour of those learned Advocates wishing to appear for the convict (though this Court otherwise would have no doubt on the validity of such vakalatnamas issued in favour of counsel who stand at the bar with responsibility), and to try and put the controversy at rest once and for all, by even determining as to whether the convict is in a healthy condition or not, learned State counsel is directed to obtain the affidavit of the Superintendent, District Jail, Rohtak (at Sunariya), annexing therewith a medical certificate issued by the Medical Officer of the jail, as regards such medical condition of the convict.

The Superintendent, District Jail, Rohtak, would also state in the affidavit as to any "gang wars" that have taken place in the year 2019 (with one such incident contended to have taken place in January 2019, as per counsel for the petitioner), and any threat perception with regard to the aforesaid convict lodged in the jail.

At this stage it is also necessary to state by this Court, that as Administrative Judge, Rohtak Sessions Division (uptill April 2019), I had visited the Sunariya Jail on 30.03.2019 alongwith the learned Sessions Judge, Rohtak, and the convict had met me and was seen, atleast at that stage, to be in a perfectly healthy condition, with him not having expressed any doubt whatsoever as regards his security or any threat perception to his life, his only grievance being that he was not allowed to ring up his relatives, like other prisoners are allowed to. On query, the Superintendent of the jail had informed me that due to a risk of any "mobfrenzy" in case the conversation was recorded at the other end, precautions were necessary to be taken.

Infact after I had dictated this order in Court, it is also considered necessary to add at this stage a direction to the learned Sessions Judge, Rohtak, to send a status report with regard to the conditions in the jail and the medical condition etc. of the convict for whose alleged welfare this petition has been filed, i.e. Gurmeet Ram Rahim Singh. This direction is considered necessary so that when the affidavit of the Superintendent of the District Jail is put up on the next date of hearing, no allegation is raised that the Superintendent is deliberately trying to hide facts or mislead this Court, which ofcourse this Court would not otherwise also readily accept. Yet, as already said, to put at rest the entire issue, the learned District & Sessions Judge, Rohtak, is requested to file a status report as regards the conditions in the jail and the condition of the said convict.

Upon the earlier part of the order having been dictated, Mr. Ghai, learned senior

counsel, again submits that with the petitioner not even authorized by Gurmeet Ram Rahim Singh to file this petition, even the aforesaid order is not necessary to be passed.

Having considered that contention, though I agree with it, however, simply in order to determine the fact that all is well in the Sunariya Jail and to put an end to this litigation if everything is found in order, the aforesaid dictation has been given.

Mr. Ghai has also submitted that such like frivolous petitions should not be entertained and infact should be dismissed with heavy costs.

That aspect would also be considered by this Court once the report of the Superintendent, District Jail, Rohtak, and the learned Sessions Judge, Rohtak, are received.

It is made absolutely clear that this direction shall not be interpreted in any manner to be one directing the presence of the convict in this Court, with it reiterated that he is not to be brought to the Court or taken out of the Sunariya Jail, District Rohtak.

Adjourned to 06.11.2019.

To be shown in the urgent list.

A copy of this order be given to learned

State counsel under signatures of the Court Secretary."

4. Today, pursuant to the aforesaid order dated 30.10.2019, a photocopy of a communication received from the learned District & Sessions Judge, Rohtak, addressed to the Registrar General of this Court, dated 05.11.2019, is on record, which is again being reproduced in toto so as to ensure that there is nothing left unsaid in the matter:-

"Sir

I have the honour to refer to order dated 30.10.2019 passed by the Hon'ble High Court in CRM-43607 of 2019 titled "Dr. Mohit Gupta Versus Additional Chief Secretary, Chandigarh & others" whereby the undersigned has been directed to send status report with regard to the conditions in the jail and the medical condition etc. of the convict i.e. Gurmeet Ram Rahim Singh.

In this regard, it is most respectfully submitted that a news item titled "Ram Rahim tortured in jail, counsel informs HC" had appeared in The Tribune dated 23.10.2019 (copy enclosed). On that very day, as per my order, office Superintendent, Sessions Court, Rohtak had written letter No.11885 dated 23.10.2019 addressed to Superintendent, District Jail, Rohtak for his comments regarding the news item (copy enclosed). In reply to the same, Superintendent, District Jail, Rohtak, vide letter No.9030 dated 24.10.2019 had replied that convict Baba Gurmeet Ram Rahim Singh has been lodged in a separate barrack

with five other convicts. Barbed wire has been affixed on the four walls of the barrack wherein Baba Gurmeet Ram Rahim is lodged. Apart from this, as per the order of Director General, Prisons, Haryana, one Adhoc Jail Superintendent and three Adhoc Deputy Superintendents have been deputed in the enclosure of the barrack. Further, three Assistant Superintendents of jail, by turn, remain on duty for the security of Baba Gurmeet Ram Rahim Singh, round the clock. That apart, three warders, by turn, remain on duty outside the barrack. The convict is allowed to meet his relatives and Advocates as per rules. Superintendent, District Jail, Rohtak in his reply also stated that Baba Gurmeet Ram Rahim Singh has no security threat inside the jail and he is perfectly fine, physically and mentally. He also mentioned that as per the orders of State Government, the convict is subjected to medical examination every month by the doctors of PGIMS, Rohtak (copy of letter No.9030 dated 24.10.2019 of Superintendent, District Jail, Rohtak addressed to the undersigned is enclosed).

I would like to add that as per the instructions of the Hon'ble High Court, the undersigned in his capacity as District & Sessions Judge, Rohtak visits the jail for inspection every month. The undersigned had visited the jail on 31.10.2019 along-with the office Superintendent. When the undersigned entered the Jail Complex, the undersigned found Baba Gurmeet Ram Rahim Singh sitting with a person in a room adjoining the room of the Superintendent, District Jail. On enquiry, Shri Sunil Sangwan, Superintendent, District Jail, Rohtak, pointed out that some Advocate has come to seek some instructions from Baba Gurmeet Ram Rahim Singh. After I had inspected the jail and was on my way back, I found Baba Gurmeet Ram Rahim Singh going towards his barrack. On my directing the jail officials to produce Baba Gurmeet Ram Rahim Singh before me, the latter appeared before me. I enquired about the news item dated 23.10.2019, which had appeared in The Tribune. To the same, Baba Gurmeet Ram Rahim Singh replied that it is a fake news and that he has no threat to his life inside the jail. He also pointed out that he is hale and hearty and satisfied with the arrangements in the jail as regard his security as well as medical facilities.

The undersigned had joined as District & Sessions Judge, Rohtak on 27.2.2019. Though some trumped-up altercations between the jail inmates, wholly unrelated to Baba Gurmeet Ram Rahim Singh, were reported by the Superintendent, District Jail, Rohtak during this period, yet no incident pertaining to any gang war or any security threat to Baba Gurmeet Ram Rahim Singh was reported by the Superintendent, District Jail, Rohtak during this period.

On getting a copy of the order dated 30.10.2019 passed by the Hon'ble High Court, I again visited the jail on 4.11.2019 and verified the security arrangements. I also recorded the statement of Baba Gurmeet Ram Rahim Singh (original enclosed). Baba

Gurmeet Ram Rahim Singh in his statement has expressed satisfaction about the security arrangement and the medical facilities. In his statement, he has also

denied any gang war. He has also stated that he is not acquainted with Dr. Mohit Gupta, who has filed the petition. However, he has stated that he be given the facility of Video Calling. It is submitted that CCTV cameras have been installed in the jail, which are monitored in the control room of the jail.

I am of the considered view that there are proper arrangements in the jail and there is no security threat to Baba Gurmeet Ram Rahim Singh, who is hale and hearty and is being provided with proper medical facilities inside the jail. No incident of gang war has been reported.

Submitted please.

Yours faithfully

District & Sessions Judge

Rohtak"

5. Other than the above, Mr. Surender Singh, learned A.A.G., Haryana, has filed in Court today a status report by way of an affidavit of Sh. Sunil Sangwan, Superintendent, District Jail, Rohtak, on behalf of the respondent-State, which is ordered to be taken on record. A copy thereof has been given to learned counsel for the petitioner.

(a) In the aforesaid status report, other than giving the background of the conviction and the orders of sentence of the person for whose welfare (ostensibly), this petition has been filed, it has been stated that the convict (Baba Gurmeet Ram Rahim Singh), is lodged in a Special Security Ward and for security purposes sand bags have been put on the roof and in front of the grills, to avoid any aerial attack. CCTV cameras are also stated to have been installed in the jail at all sensitive locations, with the facility of '24x7 hours' surveillance, and a dedicated CCTV control room has also been established.

A Standard Operating Procedure (SOP), is stated to have been prepared and approved by the State Government, for security and for maintaining law and order due to the said convict being lodged in the jail, which the Superintendent has stated, is a protocol procedure being meticulously followed, and as such there is no threat perception inside the jail.

The affidavit of the Superintendent further goes on to state what has already been noticed hereinabove, from the report of the learned District & Sessions Judge, Rohtak, as regards the number of officers additionally deputed to the jail on the orders of the Director General of Prisons, Haryana.

It has been further stated that Police 'Nakas' (check posts) have been set up outside the boundary wall of the jail, with details thereof also given in the affidavit.

(b) It is to be specifically noticed that the Superintendent has also stated that the family members of the said convict usually visit the jail for an 'interview' with

him and that he is being duly produced before the CBI Court through a video conferencing system established at the jail, as per the order of the court, keeping in view his safety and security, as also to maintain law and order.

(c) It has also been stated that the learned District & Sessions Judge as also the Chief Judicial Magistrate, Rohtak, visit the jail on a monthly basis and that they also visit the barracks and hear the grievances of convicts, including Gurmeet Ram Rahim Singh.

(d) Next, it has been stated that the counsel/Advocates of the said convict also visit the jail regularly (on working days), with it further stated that (however) the petitioner has failed to produce any document before the Jail Superintendent to prove that he is the 'legal advisor' of Gurmeet Ram Rahim Singh.

(e) Next, the affidavit states that in the current year (2019) and even in fact since 25.08.2017, no untoward incident has occurred in the ward of the said convict, with no gang war having occurred in the jail in the year 2019 and as regards the month of January 2019 "03 minor incident of quarrels between other prisoners were occurred in Rohtak Jail." These quarrels are stated to be not related to the said convict.

(f) Next, the Superintendent of the District Jail has stated in his affidavit that the Prison Inmates Calling System (PICS), is available in the District Jail Rohtak, with the facility being provided to the said convict to talk to his family members, after verification of the phone numbers provided by the convict, upon getting a No Objection Certificate (NOC) from the concerned police authorities, as per the guidelines issued by the Director General of Police, Haryana, dated 05.04.2019 (a copy thereof having been annexed as Annexure R-1 with the affidavit).

It is seen that the said instructions/guidelines are in the form of a communication from the Director General of Police, Haryana, to the Director General of Prisons, Haryana, stating therein that since Gurmeet Ram Rahim Singh is regularly allowed to meet his family members, the Police Department has no objection if PICS facility is also provided to him as is also allowed to other prisoners in the jail, thereby enabling him to speak to the two persons whose names are given in the said communication, along with their mobile numbers.

(g) The affidavit of the Superintendent next refers to the medical treatment being provided to the convict by way of, in fact, a Medical Board of specialist doctors and para medical staff, right since 2017, with him having undergone a health check-up on 08 dates between 13.03.2019 and 31.10.2019.

As per the report of the doctors, there was nothing abnormal in his 'body functions'.

Even so, the report of the Medical Officer of the jail, dated 02.11.2019, is also reproduced in the affidavit of the Superintendent, the gist of which is to the effect that he is not suffering from any medical problems and that his "general condition is normal." A copy of the health check-up conducted by the Board on

31.10.2019 and the report of the medical officer of the District Jail have in fact also been annexed as Annexures R-2 and R-3 respectively, with the affidavit.

6. Thus, very obviously, it is seen from a detailed perusal of the report of the learned Sessions Judge, Rohtak, and the affidavit of the Superintendent of the District Jail, Rohtak (at Sunariya), that there is no problem existing with the convict "for whose welfare" this petition has been filed, with his medical condition stated to be fully satisfactory, his security not under threat in any manner, there being extensive security measures taken to ensure that he is not under any threat and most importantly, he himself having stated before the learned Sessions Judge, that he has not authorised the petitioner to file this petition and is not seeking any benefit from the petition as he is not facing any problem in the jail.

This petition would therefore seem to be wholly misconceived and in fact a frivolous one, more so because as per the statement of the convict to the learned Sessions Judge, Rohtak, he does not even know the petitioner, even though learned counsel for the petitioner has vehemently disputed that fact, to contend that the petitioner has grown up in the Dera.

7. This court would not make any comment on that contention, except to repeat again that the petition has obviously been filed without any authorisation, and even (as now confirmed from the report of the Sessions Judge, Rohtak, as also the affidavit of the Superintendent of the District Jail), that there is absolutely no threat perception to the convict, at least in terms of the extensive security measures taken by the State, within the jail, and in its immediate vicinity.

8. Mr. Ghai, learned Senior Counsel appearing for the convict, submits that the contention of learned counsel for the petitioner on the last date of hearing (to the effect that even counsel seeking to appear and represent the convict, could not be taken to have been authorised to appear for him in this petition), was obviously a wholly uncalled for statement made on that date, (with counsel for the petitioner however reiterating that the petitioner has been working in the 'Dera' from a very long time, with him having been born there and having received his entire education there, including a degree of Bachelor of Dental Surgery).

9. Having so considered the contentions raised on both sides, in my opinion, looking at the fact that the person for whose alleged welfare the petition has been filed, has denied having authorised the petitioner to do so, with him denying even knowing the petitioner, and with him having stated before the learned Sessions Judge also that he has no grievance other than not being allowed the video calling facility, and further, that three counsel and a learned senior counsel had in fact appeared even before notice of motion was issued on 30. 10.2019, to submit instruments conferring a power of attorney upon them to represent the said convict in court, and with them having stated that he is not interested in any relief at the hands of the petitioner, but with counsel for the

petitioner having still insisted that the authorisation cannot be said to be authentic qua this case, the petition deserves to be dismissed with a very heavy cost imposed upon the petitioner.

Consequently, to also try and ensure that such frivolous petitions, with no basis in fact, are filed by any other 'alleged sympathizer', this petition is dismissed, with a cost of Rs.50,000/- imposed upon the petitioner, to be deposited by him with the Haryana State Legal Services Authority, within a period of two months from today.

Having held as above, in fact even to try and avoid any subsequent application being filed in this petition qua that issue, it needs to be still stated that as regards any grievance that the convict has, of not being allowed to avail of the 'video calling facility', as per what he contended before the learned Sessions Judge, naturally, he has his remedies available by way of any representation/ complaint etc. before the competent authority in the Prisons Department and the State Government; and if at all any such complaint/representation is made by him, that would be dealt with wholly on its own merits, by the competent authority.