

(1998) 07 P&H CK 0100

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 27381-M of 1997

Jai Pal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 07-07-1998

Acts Referred:

Citation : (1998) 3 RCR(Criminal) 638

Hon'ble Judges : K.K.Srivastava, J

Advocate : Sarla Chaudhary, Advocates for appearing Parties

Judgement

K.K. Srivastava, J.

1. Notice of miscellaneous case to A.G., Haryana.
2. Mr. Surender Lamba, AAG for the State of Haryana accepts notice on the asking of the Court. Copy of the petition has been handed over to him.
3. After hearing learned counsel for the petitioners and the learned State counsel, Criminal miscellaneous is allowed. Application is taken on record of the main case.

Main case

3. Heard the learned counsel for the petitioners. Jai Pal and Raj Pal, serving life imprisonment and confined in District Jail, Rohtak and learned State counsel Mr. Surender Lamba appearing for the respondents.
4. By means of this petition filed under Section 482 Cr.P.C. these two petitioners seek their transfer from District Jail Rohtak to the District Jail, Gurgaon. It is alleged that the petitioners were undergoing sentence of life imprisonment under Section 302 IPC which arose from FIR dated 5.8.1990. They were convicted and sentenced on 9.12.1996. It is alleged that both the petitioners are brothers and their father is quite an old aged person being age of 80 years and unable to move and come to the District Jail, Rohtak to meet the petitioners. The children

of the petitioners are minors. The petitioners are finding it exceedingly difficult to be lodged at District Jail, Rohtak because their family members are unable to come and meet them. In para 5 of the petition it has been contended that earlier they had made a request for their transfer from District Jail Bhiwani to Gurgaon but they were at that time not transferred to Gurgaon and were transferred to District Jail Rohtak. It has also been contended that the petitioners have very good conduct and there is no complaint against them. Reference has been made to an observation made by a Single Judge of this Court in *Surjit Singh v. State of Haryana*, 1990(3) RCR 489 (para 739 of Jail manual) which reads as under :

"By mere conviction a prisoner cannot be ceased to be dispossessed of basic rights including the right to be treated with human dignity. Continuous contact with one's family members and friends has a great stabilising influence on a person. Relations are with modest means and cannot take long journeys in order to meet the petitioners."

5. Upon the issuance of notice of motion to the respondents, they filed a written statement of the acting Superintendent District Jail, Rohtak contending, inter alia, that District Jail Gurgaon is overcrowded and as such the petitioners were transferred to District Jail Bhiwani and thereafter to District Jail Rohtak by the order of respondent No. 1. It has also been contended that the District Jail Rohtak is the nearer District Jail from Gurgaon. Reference has been made to para 741 of the Punjab Jail Manual which empowered the Director General of Prisons, Haryana, Chandigarh to transfer any convict at his discretion. It has also been contended that it is not a right to get transfer to a district Jail of his choice.

6. Learned State counsel has placed on record a policy Letter dated 19.8.1977 issued from the Inspector General of Prisons, Haryana, Chandigarh and addressed to all Superintendents of Jails conveying to them the decision taken regarding keeping of prisoners in jail of home districts. At serial No. 8 District Gurgaon has been shown and against which it has been mentioned at Sr. No. 1 that the convicts under sentence upto 3 years District Jail, Gurgaon and (ii) remaining, District Jail, Rohtak. On the basis of this decision some information was asked from the Superintendents of Jail in the State of Haryana. This is a decision taken by the State Government which cannot be held to be rigid and it may not admit of any exception considering any exigency of the matter.

7. After carefully considering the case of the petitioners I find considerable merit in the plea of the petitioners that they be shifted to District Jail, Gurgaon in order that their family members including his old and aged father who is feeble may be in a position to meet them. This petition is allowed and a direction is issued to the respondents to transfer the petitioners to district jail, Gurgaon as a special case considering the peculiar exigencies and circumstances of the petitioners and further directing that it shall not be treated as a precedent for other cases. Disposed of accordingly. These directions may be carried out by the respondents expeditiously but not later than one month from the date of receipt of copy of this order from this Court or a certified copy thereof from the petitioners.