

Harbans Singh

Vs

State of U.P. and another

W.P. (Criminal) Nos.1214 of 1990 and 610 of 1991

(A. M. Ahmadi, P. B. Sawant, S. C. Agarwal JJ)

13.09.1990

ORDER

1. W.P. (Crl) No. 610/ 89. Rule Nisi. Heard learned counsel for both the parties. The grievance of the petitioner is that certain Sikh under-trial prisoners are being kept in fetters. Notice was issued on 22nd December, 1989 and was made returnable within five weeks. The counter has been filed by the Deputy Jailor of Central Jail, Bareilly, stating that 21 under-trial prisoners, named therein, are being prosecuted for commission of different offences before the Designated Court, Bareilly. We are not concerned with their prosecution. The short question before us is whether they need be kept in fetters as under-trial prisoners. In paragraph 4 of the counter, it is stated that these accused were received in the Central Jail, Bareilly, on transfer from other jails between August and December, 1990 in fetters and keeping in view the security instructions contained in paragraph 427 of the U.P. Jail Manual, due to multifarious cases pending against them for heinous crimes they are kept in fetters for otherwise they are security hazards. The learned counsel for the State Government informed us that he was unaware of the present position and was, therefore, not in a position to assist the Court. That is regrettable. However, having regard to the averments in paragraph 4 of the counter dated 23rd January, 1990 it is obvious that the under-trial prisoners are kept in fetters and this is confirmed by the report of the District Judge, Bareilly dated April 9, 1990. We fail to understand why proper security arrangements cannot be made in jail to guard these undertrials. Armed guards can be posted to guard them if security reasons so demand but it seems inhuman to keep them in fetters while they are awaiting trial which is delayed, notwithstanding this Court's order to expedite them. We are, therefore, of the opinion that while they are in jail proper arrangements may be made but it is not necessary to keep them in fetters all the time. It will, however, be open to the authorities to place extra security restrictions of the type they consider appropriate when these under-trials are required to be taken out of jail for any purpose. We, therefore, direct that they will not be kept in fetters in jail.

2. The second grievance made by the learned counsel for the petitioner was that despite this Court's order in SLP (Crol) No.2249/88 dated 14th March, 1989 the Designated Court has not as yet begun with the trials of the 21 under-trials. He also informs us that applications for expediting the trials have also not been disposed of. We fail to understand why orders are not passed on the applications filed by under-trials for expediting the trials as directed by this Court. We would, therefore, expect the Designated Court to take up the applications at an early date for expediting the trials and dispose of the same with ease preferably within a period of three months. The rule in the writ petition is made absolute accordingly.

3. In view of the above order, the grievance in this writ petition does not survive. The same is, therefore, disposed of with no order.

Order accordingly.

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