

101

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-10377-2023 IN
CRM-4604-2023 IN
CRA-D-1048-2022
Date of decision:02.03.2023**

TARIF HUSSAIN

...Applicant-Appellant

Versus

STATE OF HARYANA

...Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE KULDEEP TIWARI**

Present: Mr. R.S. Dhull, Advocate
for the applicant.

Mr. Raman Sharma, Addl. A.G. Haryana

SURESHWAR THAKUR, J. (ORAL)

1. This Court through an order made on CRM-4604-2023 on 08.02.2023 had made the hereinafter directions upon the respondents concerned.

“1. The convict-appellant has through filing the instant application prayed for relief qua his being released on interim bail for four weeks, on the ground that his wife has been diagnosed with 32 weeks and 6 days of pregnancy, and, that her due date of delivery is expected to be around 2.3.2023, besides there is no one else in his family to take care of her needs. A copy of the ultrasound report dated 11.1.2023, has been annexed with the application as Annexure A-1.

2. Therefore, the Superintendent of the jail concerned is directed to deploy two armed guards in plain clothes alongwith the convict-appellant, who shall accompany him to the hospital concerned, or to the house of the convict-appellant. The stepping outside the prison of the convict-appellant shall commence in the evening of 25.2.2023, and, shall last uptill the morning of 20.3.2023. Furthermore, in the morning of 20.3.2023, the armed guards shall ensure that the convict-appellant is retrieved to the prison concerned.

3. All the expenses towards the transportation of the convict-appellant besides qua the accompanying him armed guards shall be borne by the convict-

appellant. In addition, the expenses towards the boarding and lodging of the armed guards shall also be borne by the convict-appellant.

4. The application stands disposed of accordingly.”

2. However, subsequently an application has been instituted by the applicant disclosing therein the expenses which have been computed by the respondents for enforcing the order (supra), as made by this Court.

3. The learned State counsel was directed to place on record the relevant Rules and Instructions within which the said calculation has been made.

4. The said instructions are placed today before this Court. A reading of the said instructions reveals, that the instructions appertain to charges to be imposed and recoverable from institutions, private persons rather for supplying to them police security personnel. Therefore, *per-se* on a plain reading of the said placed instructions, today before this Court, it is but manifestly clear, that the contemplations therein, for the realizations from the concerned, of the rates in respect of the deployment of security to the concerned, are but applicable, only upon apposite requisitions being made and thereafter security being provided to institutions, and, private persons concerned.

5. Though even if, any applicant concerned, is ordered to be released from prison, but on a direction being made upon him to furnish heavy amounts of personal and surety bonds before the learned Magistrate concerned, yet when, thereupon also there is every possibility, as has been noticed earlier, of the applicants' jumping the bail.

6. Moreover, since the above necessarily has a further ill consequence of there being avoidable absconsion of the applicant concerned, from the process of law, thus ultimately delaying the makings of further progress by the learned trial Judge in respect of the trial which may becomes entered into against the applicant concerned. Furthermore, even in appellate proceedings the

above avoidable absconsion may ultimately lead to, in the event of verdict of conviction becoming affirmed, yet the warrants of commitment being also frustrated to be enforced upon the convict-applicant.

7. Therefore, primarily it was for forestalling the above ill consequence(s), as may arise from the indulgence of interim bail being granted to the applicant, that this Court has made the above order. Thus, the order (supra) is to be read as assisting Courts of law in the administration of criminal justice but for which rather the police agencies are meant. The above entailed legal duty of the police agencies cannot be avoided to be performed through the police asking for exorbitant expenses being furnished by the applicant for ensuring the makings of compliance by them to the order (supra).

8. Moreover, the spirit of the order (supra), was also to ensure that the personal liberty of the applicant is not interfered with, especially when a grave emergent circumstance is set forth, rather for ordering the release of the prisoner from the jail concerned. Nonetheless, the respondent concerned, has been completely unmindful of the above rather has levied charges in pursuance to the instructions placed today, which are completely non-applicable to the prisoner, and, which are but excessive and exorbitant, and, which but lead to rather even the limited privilege assigned to him, also being untenably curtailed.

9. Therefore, the application is allowed, and, the order (supra), as made by this Court is directed to be enforced.

10. However, the charges which are to be levied upon the applicant shall be equivalent to the actual expenses which are to be incurred towards the transportation costs, and, towards the boarding and lodging of the armed escort, as, deployed along with applicant but for the period mentioned in the order. Thus, it is directed that the said instructions be not enforced in respect of the

CRM-10377-2023 IN CRM-4604-2023 IN CRA-D-1048-2022

-4-

situation at hand. Contrarily, the respondent(s) concerned, is directed to evolve a mechanism directly relating to the situation at hand.

11. As orally prayed for by the learned counsel for the applicant, the release of the applicant from the prison concerned, be ensured in the manner as directed by this Court, on 08.02.2023, but in the morning of 13.03.2023, and, shall last upto 28.03.2023.

(SURESHWAR THAKUR)
JUDGE

02.03.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:- Yes/No
Whether reportable: Yes/No

सत्यमेव जयते