

ITEM NO.4

COURT NO.2

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Cr1.) Nos.5007-5008/2018

(Arising out of impugned final judgment and order dated 25-04-2018 in CCN No.4669/2017, 25-04-2018 in RN No.11/2017 passed by the High Court Of Judicature At Allahabad)

IRFAN @ NAKA

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH

Respondent(s)

(IA No.40953/2022 - FOR PERMISSION)

Date : 17-05-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Petitioner(s) Ms. Adeeba Mujahid, AOR
Ms. Trisha Chandran, Adv.

For Respondent(s) Mr. Ajay Vikram Singh, AOR
Ms. Priyanka Singh, Adv.
Mr. Narender Rana, Adv.
Mr. Neelambar Jha, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Notice in this matter was issued on 08.06.2018 and original record was directed to be summoned. The original record has since then been received by the Registry of this Court.

Leave granted.

This appeal arises out of confirmation of death sentence awarded to the appellant by the High Court of Allahabad in Capital Case No.4669 of 2017 and Reference No.11 of 2017.

Pending further consideration, the execution of sentence of death imposed upon the appellant is stayed. Let an intimation to that effect be sent to the concerned prison immediately.

We have passed certain directions in *Manoj v. State of Madhya Pradesh* [Cr1. Appeal Nos.248-250 of 2015] and in some other death sentence matters which directions were passed after conclusion of the arguments on the issue of conviction. However, we are of the view that the assessment as regards conduct of the accused, if made in advance before the final submissions are advanced, will go a long way in rendering assistance.

In series of death sentence cases, this Court has been passing certain directions so that psychological evaluation of the concerned convict can be ascertained. Further, access has also been granted to the learned counsel representing the appellant(s) so that any mitigating circumstances, if any, be brought on record, on behalf of the concerned appellant(s).

Since the appellant has been awarded death sentence, in our view, facets of the matter touching upon the character and behaviour of the appellant would be essential in order to have complete assessment in the matter.

Learned counsel for the appellant/convict has also filed I.A. No.40953 of 2022 seeking permission for a mitigation investigator to be allowed access to the appellant. Following prayers have been made in the application:

- "a. Grant Ms. Cathaleen Kaur permission to physically visit the appellant, namely, Irfan @ Naka in District Jail, Bijnor and conduct interviews for the purpose of collecting information relevant to sentencing.
- b. Grant Ms. Cathleen Kaur permission to obtain documents or other written material, including but not limited to certificates of any educational, vocational or employment opportunities undertaken, etc. that the appellant may wish to submit to her for the purpose of sentencing information.
- c. Direct that Ms. Cathleen Kaur be permitted to conduct regular interviews with the appellant for a period of two (2) months, with the time period for such visits/interviews being at least three (3) hours per week.
- d. Direct that such interviews be confidential and conducted without any prison or police staff at earshot distance.
- e. Direct the respondent to implement video-conferencing facilities through the National Prison Information Portal (NPIP) in District Jail, Bijnor, so that the appellant can regularly interact with his legal representatives using video-conference facilities."

In order to have complete assistance in the matter, We direct as under:

1. The respondent-State shall place before us the Report(s) of all the Probation Officer(s) relating to the accused before the next date of hearing. In case there have been more than one Report, let all Reports be placed for the consideration of this Court.

2. We direct that the Report of the Jail Administration about the nature of the work done by the appellant while in jail be placed before this Court on or before the next date of hearing.
3. We also feel that the interest of justice dictates that we obtain a psychological evaluation of the appellant.

We direct the Director, Bareilly Mental Health Hospital, to constitute a suitable team for psychological evaluation of the accused/appellant in this case and send a report before the next date of hearing.

4. The Jail Authorities, District Jail, Bijnor, where the appellant is presently lodged, shall render complete co-operation in facilitating access to and due evaluation of the appellant in all respects.
5. Ms. Cathleen Kaur, who is associated with Project 39-A of the National Law University, Delhi, is allowed to have access to the appellant, who is presently lodged in District Jail, Bijnor, to have an independent assessment and to submit an appropriate Report to this Court.

The Registry shall send due intimation to all the concerned authorities immediately.

Let the report be placed before this Court on or before the next date of hearing.

List this matter for final disposal on 13.09.2022.

(MUKESH NASA)
COURT MASTER

(ANJU KAPOOR)
BRANCH OFFICER