

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION (DIRECTION) NO. 4191 of 2024**

With
CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2024
In R/SPECIAL CRIMINAL APPLICATION NO. 4191 of 2024

=====

SHWETA SANJIV BHATT W/O SANJIV RAJENDRA BHATT
Versus
STATE OF GUJARAT & ORS.

=====

Appearance:

MS. KRUTI M SHAH(2428) for the Applicant(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2,3

MR MITESH AMIN, AAG WITH MR KM ANTANI AND MS. DIVYANGNA
JHALA, APPs for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 16/10/2025

COMMON ORAL ORDER

- 1) Rule returnable forthwith. Learned APP waives service of Rule for the respondent State.
- 2) Considering the facts and circumstances of the case and with consent of learned counsel for the respective parties, this matter is taken up for final disposal forthwith.
- 3) By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order or direction, directing the respondents not to transfer and/or dislodge the husband of the petitioner Sanjiv Rajendra Bhatt from Palanpur District Jail to any other jail as well as not to undertake any direction or indirect coercive measures against the husband of the petitioner.



- 4) Short facts emerge from the record of the petition are that, husband of the petitioner, who is former Indian Police Service Officer and a senior citizen, was sentenced to life imprisonment by learned Sessions Court, Jamnagar, in connection with Sessions Case No.148/2016 on 20.06.2019 and was directed to be lodged at Palanpur District Jail by judicial order. The husband of the petitioner is undergoing his sentence of life imprisonment along with other convicts and long term convicts at Palanpur District Jail since 20.06.2019. During said conviction, another trial under NDPS being Special NDPS Case No.3/2018 was pending before Sessions Court, Banaskantha at Palanpur. Husband of the petitioner had made submissions in the NDPS proceedings vide Exh:759 before the the court of learned 2nd Additional Sessions Judge, Palanpur . Thereafter, on 27.03.2024, learned 2nd Additional Sessions Judge, Palanpur convicted the husband of the petitioner in the said case. During the aforesaid trial, husband of the petitioner was detained at Palanpur jail and now the petitioner apprehends that the respondent authority is trying to transfer the husband of the petitioner from Palanpur Jail to any other jail. Being aggrieved by the same, present petition is filed before this Court.
- 5) Ms. Kruti M. Shah, learned counsel for the petitioner has submitted that, husband of the petitioner is undergoing his sentence of life imprisonment along with other convicts since 20.06.2019. Custody certificate has been issued on 30.01.2024 by the Superintendent of Police. As per the order passed by learned Sessions Court, Jamnagar, husband of the petitioner is lodged at Palanpur jail. It is further submitted that upon conviction rendered in NDPS case, there is likelihood that the



State authority will direct the jail authorities to dislodge the husband of the petitioner from Palanpur District Jail to any other central jail. It is also submitted that as per Clause 9 of the Gujarat Prison (Removal of Prisoners), 1976, a specific provision is made that a prisoner shall not be ordinarily transferred until the expiration of the period allowed for appeal or until the result of the appeal is known except when he is transferred according to the classification of the prisons. It is also submitted that, the husband of the petitioner is lodged at Palanpur jail since 20.06.2016 and till date, no any untoward incident happens against the husband of the petitioner. Even as per the settled position of law, humanitarian approach has to be adopted at the time of lodging a prisoner in a jail considering overall circumstances of the family members and in the present case, the petitioner is the only available relative and if the husband of the petitioner is transferred to Rajkot Central Jail then it will be a difficult for her to travel and meet her husband. It is submitted that most emanates threat to the safety and security of her husband emanates from the vindictive State machinery irked by the deposition of petitioner's husband.

In such facts of the case, there is no any good reason to dislodge the husband of the petitioner from Palanpur District Jail to any other jail. Hence, present petition may kindly be allowed as prayed for by the petitioner.

- 6) Mr. Mitesh Amin, learned Additional Advocate General, assisted by Mr. Kanva Antani and Ms. Divyangna Jhala, learned APPs for the respondent State has opposed the present petition and contended that, the husband of the petitioner is facing two



convictions. The husband of the petitioner has been convicted by learned Sessions Court, Jamnagar life imprisonment for the offence under Section 302 of IPC in Sessions Case No.148/2016 and simultaneously, another offence was registered under the NDPS Act, in which also, the husband of the petitioner was convicted on 27.03.2024. It is submitted that, while awarding sentence i.e. jail warrant, it was directed that as trial was pending before the Court at Palanpur, the husband of the petitioner was ordered to be kept at Palanpur jail, but now as trial is over, he be sent back to the concerned jail. The husband of the petitioner had challenged the judgment and conviction delivered in NDPS Case before Division Bench of this Court, which is pending. Further, as per communicated addressed by SP, Palanpur District Jail to SP, Rajkot Central Jail dated 01.09.2024, the husband of the petitioner was transferred from Palanpur District Jail to Rajkot Central Jail. As per the Government Notification issued by the Home Department pertaining to classification of prisons and prisoners, which mandates the applicant to be kept at Rajkot Central Jail for the purpose of undertaking sentence of life imprisonment as awarded by Jamnagar District and Sessions Court in Sessions Case No.148/2016. Therefore, the husband of the petitioner is presently kept at Rajkot Central Prison. This requirement for his custody to be subjected to Rajkot Central Jail upon being convicted for murder and being sentenced to life is in accordance with the policy of the State Government in that regard envisaged in GR dated 19.01.2017. Now the petitioner having no right to ask jail transfer of her husband as of right as per classification of the State policy made by the State



Government. As per the Circular issued by the Home Department as well as Classification, prisoners of Jamnagar District are also lodged at Rajkot Central Jail. There is no arbitrariness on the part of the State. Not only that, the husband of the petitioner not having absolute right to seek jail transfer of her husband. Therefore, present petition may not be entertained.

- 7) Having heard learned counsel for both the sides and perusing the material placed on record, it is an admitted fact that the husband of the petitioner is convicted in two offences, one is under section 302 of IPC and another is NDPS offence. It is also to be noted that, while conviction has been recorded in Sessions Case No. 148/2016 with regard to murder offence, husband of the petitioner was an under-trial prisoner in NDPS case. Perusing the communication dated 20.06.2019, it reveals that initially husband of the petitioner was lodged in Jamnagar jail and due to pendency of NDPS case, he was sent to the Palanpur Jail as Under-trial Prisoner and to facilitate him to attend the trial regularly, husband of the petitioner was transferred to Palanpur Jail. Upon conclusion of the trial, warrant came to be issued and he was sent back to serve the sentence. Hence, considering the aforesaid facts, as sentence is passed consecutive, he has preferred an appeal. Therefore, question does not arise to cause any prejudice to the husband of the petitioner. Hence, this Court is of considered view that the husband of the petitioner having no absolute right to seek jail transfer. If we accept the arguments made by learned counsel for the petitioner, then also, prisoner should not be transferred pending appeal. Hence, in view of the above, Rule 9 would not



avail any assistance to the husband of the petitioner. It is undisputed fact that today the husband of the petitioner is not under trial prisoner and not in judicial custody. The place of detention is a matter of administration's choice of detaining authority. After recording conviction, it is the duty of the State and the State has to take a call where the convicts are required to be detained. As per the policy produced on record, as the husband of the petitioner is convicted by learned District and Sessions court, Jamnagar, he is required to be detained in Rajkot Central Jail and he is lodged at Rajkot jail.

- 8) Considering the aforesaid conspectus facts, no arbitrariness or malafide appears from the State order. Further, the place of detention is an administrative choice of the State and in absence of any breach of fundamental rights of convict as well as prison authority are also duty bound to maintain the discipline and peace and to ensure the safety of prisoner, request cannot be acceded to. The management and administration of the same comes within the purview of the State and they are governed by The Prisons Act, 1894 and its Rules and Regulations framed by the respective State Governments from time to time. Convict /prisoner having no absolute right to ask for to lodge or detain him in a particular place or in a jail. In this regard, reference is required to be made by the decisions of the Apex Court rendered in cases of **Girinder Kaur Vs. The State of Punjab & Ors., 1985 INSC 160** and **The State of Jharkhand & Ors. Vs. Vikash Tiwary @ Bikash Tiwary @ Bikas Nath 2025 INSC 79**. Therefore, the prayer as sought for by the petitioner that not to transfer and/or dislodge the husband of the petitioner from Palanpur District Jail to any



other jail is not entertained.

- 9) For the foregoing reasons, observations as well as relevant Policy decisions of the State Government, no case is made out to pass any direction as sought for by the petitioner. Hence, petition fails and is hereby **dismissed**. Connected Misc. Application stands also disposed of. Rule is discharged.

(HASMUKH D. SUTHAR,J)

SUCHIT