

IN THE COURT OF DIG VINAY SINGH, SPECIAL JUDGE (PC ACT),  
CBI-09 (MPs/MLAs CASES), ROUSE AVENUE DISTRICT COURT,  
NEW DELHI.

IA no. 06/25 (Applicant/A-4 Naresh Balyan)

SC No.01/2025

CNR No. DLCT11-001272-2024

FIR No. 165/2024

P.S. Crime Branch, Delhi

U/s 3 & 4 MCOC Act, 1999; 25 Arms Act, 1959

State

*Versus*

Ritik @Peter and Ors.

22.07.2025

Order

1. This order concerns an application filed by A-4 Naresh Balyan under IA no. 06/25. In this application, the accused, an under-trial prisoner, states that he was previously allowed to have *E-mulakat* with his family, but this privilege has been suddenly revoked. He also mentions that he was permitted a 5-minute audio conversation with his family members via telephone, but this has either been denied or inconsistently permitted. The applicant claims he is a diagnosed psychiatric patient, and his mental health depends on regular family interaction. Relying on the cases of *Sunil Batra vs. Jail Authorities* (1978), *Francis Coralie Mullin* (1981), *Court on Its Own Motion vs. State* (2009), and the case of *Inhuman Conditions of 1382 prisoners* (2017), the undertrial requests an order directing the jail authorities to restore the 5-minute audio/telephonic conversations and *E-*

*mulakat* through video conferencing between the undertrial and his family members.

- 1.1. A report was received from the concerned jail superintendent, under reply dated 11.07.2025, indicating that no objection had been obtained from the investigating agency as required under Rule 631 of the Delhi Prison Rules, 2018. The investigating agency, in its response, declined the NOC not only for the audio conversation but also for the *E-mulakat* facility. Due to the lack of such an NOC, as specified in Rule 631 of DPR 2018, the undertrial's request was denied.
- 1.2. Arguments on this application have been heard from both sides.
- 1.3. Ld. SPP for the State opposes the applicant's request on the grounds that he is involved in a serious MCOCA offense, and his telephonic conversations or *E-mulakat* supposedly with his family members pose a serious security threat not only to the witnesses in this case but also to others, potentially endangering safety.
- 1.4. On the other hand, Ld. Counsel for the undertrial/applicant submits that not only in MCOCA, but in other heinous offenses, different courts, including the Hon'ble Delhi High Court, have been granting such permission subject to conditions, including recording of the conversation, etc., and that the undertrial is willing to give an undertaking to abide by any condition that this Court may impose. He has presented to this Court various orders issued by different courts in the Delhi district courts, as well as the orders passed by the Hon'ble Delhi High Court in the case of *Alemila Jamir vs. Govt. of NCT of Delhi WP(C) 13842 of 2024 dated 25.11.2024* and *State of NCT of Delhi vs. Mansoor Azgar Perrphoy dated 1.07.2025 in Cr.MC 2954/2025*.

- 1.5. Having heard the Ld. Counsel for the undertrial, the Ld. SPP for the State, and after considering the objections sent by the jail authorities, it is clear that a prisoner cannot be completely denied the right to use *inmate phone calls* and *E-mulakat* facilities.
- 1.6. Rule 631 of DPR 2018 does impose restrictions on granting such facilities to individuals involved in serious offenses, habitual jail rule offenders, or those who assault co-inmates in prison. However, the jail superintendent has the authority to make appropriate decisions on a case-by-case basis, subject to prior approval from the DIG (Range).
- 1.7. Following this rule, three circulars have been issued by the Prison Headquarters: circular no. F.No.10(003598848)/Legal/PHQ/2022/5243-62 dated 02.09.2022; F.No.10(003635001)/Legal/PHQ/2022/7247-66 dated 26.12.2022; and F.No.10(003769007)/Legal/PHQ/2024/3284-3303 dated 22.04.2024.
- 1.8. The latest circular, dated 22.04.2024, states that prisoners protected under Rule 631 can only be granted inmate phone call facilities after obtaining NOC/approval from the relevant prosecuting agency. The inmate's landline or mobile number must also be shared with the investigating agency for the NOC. For *E-mulakat* (audio/video facilities), even greater scrutiny and precautions are advised. The jail superintendent has the authority to deny such requests after confirming with the DIG (Range).
- 1.9. Merely because a person is in custody during the trial of a case, the person does not lose his fundamental rights. This aspect needs no emphasis. Having reviewed the above-mentioned judgments of Hon'ble DHC as cited, this Court is satisfied that, with certain restrictions on telephonic

communications/ e-mulakat, permission can be granted to an undertrial in MCOCA as well.

- 1.10. To safeguard the interests of the Investigating Agency and ensure the safety of witnesses and others, appropriate conditions can be imposed, such as monitoring phone calls by jail authorities, restrictions on the duration, number, and frequency of calls. In addition to supervision, conversations may be recorded and monitored for security reasons.
- 1.11. As mentioned above, the applicant claims to be suffering from psychiatric problems. Even otherwise, a mentally sound and healthy inmate should be permitted to speak to family members at least once a week, which would help maintain the mental health of the undertrial.
- 1.12. After considering all facts and circumstances, including the concerns raised by the State, the **following orders** are issued:
  - i) The applicant must provide one landline or mobile number, which should belong to an immediate family member of the applicant, either spouse, children or parents. This number will then be verified by the jail authorities through the Investigating Agency to confirm ownership, including the period of ownership. If it is a mobile number, it should be a post-paid number. The applicant must also specify to whom that number belongs within his family members.
  - ii) After verifying the number with the IO/Crime Branch, the applicant shall be allowed to speak with a family member from amongst the above relations, for 5 minutes through that number only, once in a week.

- iii) The applicant shall speak in a local language that is understandable by the Assistant Superintendent of the jail, and the said five-minute call shall be made in the physical presence of the Assistant Superintendent only.
- iv) The applicant shall not use code words or speak in a language that the Assistant Superintendent cannot understand. When providing his phone number, the applicant must inform the jail authorities of the language he will use so that they can ensure the Assistant Superintendent, who understands that language, is present.
- v) The telephonic conversation will be monitored, recorded, and the recording stored for at least one year from the date of communication.
- vi) The applicant must also submit an undertaking stating that only a family member from amongst the above relations, will be on the call or e-mulakat, with no one else present. Aside from the immediate family member, no one else shall speak to the inmate.
- vii) An undertaking must also be filed confirming that none of the inmate's family members will use call conferencing or any method of diversion of call or recording at their end.
- viii) The applicant shall also abide by the conditions contained in the aforementioned circulars.
- ix) If the applicant engages in any behavior in jail that could lead to punishment for jail conduct, or he breaches any of the conditions mentioned above, he shall forfeit his right to speak to his family members via telephone or for e-mulakat.

- x) The applicant is permitted to have one telephonic conversation and one *E-mulakat* per week, each lasting 5 minutes, specifically, 5 minutes of audio conversation and 5 minutes of e-mulakat.
- 1.13. Having disposed of the application of A-4, this Court also examined the reports received in this matter from other jails regarding the other accused persons.
- 1.14. According to the replies received from the jail authorities, A-2 Rohit and A-5 Vijay Gahlot also made similar requests, which the Investigating Agency did not respond to. However, today the IO pointed out that qua A-2 a reply was sent to the Jail on 14.07.2025 only, which also did not permit that accused to have telephonic conversation.
- 1.15. **The Investigating Officer is directed to respond immediately to the communication received from the jail regarding A-5, no later than five working days from today. IO submits he did not receive copy of any such request. In that eventuality he shall get in touch with the concerned jail superintendent and obtain copy of the communication sent by jail superintendent and then reply to within 5 working days.**
- 1.16. To the application of A-1 Ritik @ Peter & A-3 Sachin Chhikara, the Investigating Agency responded to the jail authorities, refusing the request of A-1 & A-3.
- 1.17. **A-1, A-2, A-3 & A-5 shall also be permitted to have telephonic conversations and *E-mulakat*, if they wish, once a week on the same terms and conditions as mentioned above for A-4. They shall provide the necessary undertaking as mentioned above in clause vi & vii of para no.1.12 and the telephone number as mentioned above.**

- 1.18. A-6 and A-7 are reported not to have submitted any application for *E-mulakat* or telephonic conversation. If they ever choose to do so, their applications will also be considered by the jail authorities in the light of this order.
- 1.19. With those observations, the **IA no. 6/25 stands disposed of.**

*Announced in the open Court*

*on 22<sup>nd</sup> July 2025*

**(DIG VINAY SINGH)**  
**Special Judge (PC Act) (CBI)-09**  
**(MPs/MLAs cases), RACC, Delhi (m)**