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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 15th March, 2024**

+ **W.P.(CRL) 875/2024**

AAFTAB AMIN POONAWALA

..... Petitioner

Through: Mr. Akshay Bhandari, Mr. Anmol Sachdeva and Ms. Megha Saroa, Advocates

versus

STATE GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) with Ms. Priyam Agarwal, Mr. Abhinav Kumar Arya and Mr. Shivish Kaushik, Advocates
Mr. Amit Prasad and Mr. Madhukar Pandey, SPP Ms. Ruchika Prasad, Adv., Mr. Ayodhya Prasad, Adv., Ms. Ninaz Baldawala, Adv., Ms. Kavya Agarwal, Adv for the State

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (oral)

CRL.M.A. 8312/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition has been filed by the petitioner in the form of habeas corpus seeking a direction to the respondent to release the



petitioner from cellular confinement for a period of 08 hours like other prisoners, without compromising his safety and security.

4. Notice issued.

5. Mr. Sanjay Lao, Standing Counsel accepts notice on behalf of respondents, who has handed over a status report dated 15.03.2024 in Court whereby it is noted that the petitioner is facing trial in case FIR No.659/2022, for the offence under Sections 365/302/201 IPC, registered at Police Station Mehrauli, Delhi.

6. It is further noted in the status report that as per the record the petitioner/accused is presently lodged separately in Cell No.2 of Ward 4A of Central Jail No.4, Tihar under complete safety, security and proper supervision which is a Special Security Ward, comprising of 10 cells, having approximate population of 30 inmates. The said arrangement was made because the petitioner/accused was attacked when he was taken for court production/FSL and considering the same and public popularity of the case, one dedicated TSP personnel is also deployed round the clock for safety and security of the petitioner.

7. Vide order dated 31.03.2023, learned ASJ-01, District South, Saket Court, Delhi had directed lockup Incharge, Saket Court and Jail Superintendent to ensure that the petitioner be produced safely during court productions and thereafter, the petitioner was lodged separately in Cell No.2 of Ward 4A of the jail mentioned above. It is further noted that the petitioner is not lodged in solitary confinement as alleged by the petitioner. It is also noted that the petitioner is taken out of his cell regularly at least for two hours in a day i.e., one hour in the morning and one hour in the evening.



8. Learned counsel for petitioner submits that the other inmate are locked for eight hours and under the garb of the security, he is confined round the clock and only locked out for two hours in a day, as stated by the respondent.

9. It is not disputed that the said arrangement of security of the petitioner was made pursuant to order of the Court. It is prayed on behalf of the petitioner that during the day hours, petitioner can be locked out as per the rules and procedure applicable to other prisoners, however, during night, he can be put up in the solitary cell to ensure his security.

10. On the other hand, learned Standing Counsel submits that as per the perception, petitioner can be attacked even during day time, which is disputed by learned counsel for the petitioner who submits that this perception is totally wrong and under the garb of security, petitioner is confined and locked and is locked out only for 2 hours in a day.

11. Since petitioner himself has denied the threat perception during day hours, therefore, we direct the Jail Authority concerned to unlock the petitioner for 8 hours in a day with other jail prisoners. Further directed that during night hours, the petitioner shall be lodged in a solitary cell.

12. With directions as aforesaid, the present petition stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

MARCH 15, 2024/r/rk