

Sh Anirudh Tiwari,
Chief Secretary, Punjab,
Chandigarh.

Subject:- Request for re-allowing visitors to meet prisoners, both convicts serving sentence and under trails in custody.

Sir,

1. I am in custody in Central Jail Patiala since 24.02.2022 on account of false and frivolous FIR registered against me under political vendetta at the hands of the Congress Government.
2. That it has come to my notice that none of the prisoners, both convicts serving sentence and under- trials in custody have not met any of the family members/visitors since March 2020 i.e. the beginning of the Covid-19 pandemic. As an elected representative of the people of Punjab I am unable to keep my eyes and ears shut towards the inmates' misery.
3. It would be appreciated in the right light that inmates too are a part of our society, all of them also have families and a support system. Many inmates are women with small children, many inmates have not seen their newborn babies, many inmates are very aged or suffering from chronic disease, while others have very old parents waiting to see their children (inmates). All inmates have responsibilities towards their families. All of them have the right to pursue their cases to the best of their ability. All inmates need to maintain family and societal ties. This can be achieved only if inmates are allowed to meet their desired visitors.
4. The ban to meet visitors came into effect due to the outbreak of the Covid-19 Pandemic. Since two years have elapsed the restrictions need to be reviewed in the light of decreased covid cases however

prison visits for the State of Punjab have not been fully resumed as per rules despite the fact that Covid cases have drastically declined.

5. It is also noteworthy worthy that States, which witnessed higher Covid cases as compared to Punjab tolls such as Tamil Nadu (on 06.01.2022) and Madhya Pradesh (13.02.2022) have resumed regular prison visits.
6. Since as per the new guidelines of State of Punjab, almost all COVID restrictions have been lifted and even leisure activities such as swimming pools, gymnasiums, theatres, restaurants have been allowed to function normally. Courts are fully functional. Toddlers and children who are the most vulnerable are now going to school and attending classes physically. However, the Jails across the State of Punjab are not allowing visitors till date. Owing to the peculiar circumstances, in fact, the restrictions to meet visitors, should have been lifted by the Government keeping in view the rights of the prisoners.
7. This double-standard approach of the Government of Punjab of ignoring the vital rights of prisoners has had a catastrophic effect on their mental health and emotional well-being.
8. The State Governments derive powers to make rules governing prisons under Section 59 (25) of the Prisons Act, 1894 which states that the state government may make rules for guidance of visitors to prisons.
9. **The Hon'ble Supreme Court in *Sunil Batrav. Delhi Administration* 1979 (1) SCR 516 held that “Visits to prisoners by family and friends are a solace in insulation, and only a dehumanized system can deprive vicarious delight in depriving prison inmates of this humane amenity.**

The Hon'ble Supreme Court again in *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi and others*, AIR 1981 SC 746 held that “ *Personal liberty would include the right to socialize with members of the family and friends subject, of course, to any valid prison regulations and under Article 14 and Article 21 such prison regulations must be reasonable and non-arbitrary.* ”

10. Rule 549, Chapter XV, Punjab Jail Manual also provides for prison visits by family members and friends of the prisoners and provides that:

549. General Rules for the grant of interviews and communications. - (1) *Every newly convicted prisoner shall be allowed reasonable facilities for seeing or communicating with his relatives or friends with a view to the preparation of an appeal or to the procuring of bail, and shall also be allowed to have interviews or write letters to his friends once or twice, or often if the Superintendent considers it necessary, to enable him to arrange for the management of his property or other family affairs.*

(2) *Every prisoner committed to prison in default of payment of a fine or of finding security under Chapter VIII of the Code of Criminal Procedure shall be allowed to communicate by letter and to have interviews at any reasonable time with his relations or friends for the purpose of arranging for the payment of the fine or the furnishing of security.*

(3) *Every prisoner under sentence of transportation and about to be transported shall be allowed to have one or more interviews with his relatives and friends before transfer from the jail to which he was committed when sentenced.*

(4) Every prisoner under sentence of death shall be allowed such interviews and other communications with his relatives, friends and legal advisers as the Superintendent thinks reasonable.”

Further, the Model Prison 2016 under Chapter VIII titled “*Contact with Outside World*” explicitly provides for reasonable facilities for seeing or communicating with his/her family members, relatives, friends and legal advisors.

The Standard Minimum Rules for Treatment of Prisoners adopted by the First United Nations Congress on Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council under Rules 37, 38 and 39 provide for prisoners to have contact with the outside world.

Rule 37 states that prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

11. The effect of family visits on prisoners’ well-being and future behavior is an important consideration in development of prison policy. Social interaction is a basic human need and depriving one of the same violates Article 21 of The Constitution of India and is a gross infringement of human rights. Family visits are a right and not a privilege.
12. It would also be well appreciated, that prisoner’s liberty is already confined, and depriving them of the little rights that are guaranteed under the constitution and jails rules lead to enormous unjustified suffering.

Therefore, through this representation, I strongly urge you to lift the ban and restart visitation rights in Jails across the State of Punjab.

With Regards

Bikram Singh Majithia.