

VERDICTUM.IN

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ITEM NO.28

COURT NO.1

SECTION X

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

Writ Petition(s)(Criminal) No(s).318/2023

SABERA KHATOON

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.142845/2023-GRANT OF INTERIM RELIEF and IA No.142846/2023-EXEMPTION FROM FILING O.T.)

Date : 21-08-2023 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Ms. Ujjaini Chatterji, Adv.
Mr. T. Mayur Priyan, Adv.
Ms. Vanya Gupta, AOR

For Respondent(s) Mrs. Aishwarya Bhati, A.S.G.
Mrs. Swarupama Chaturvedi, Adv.
Ms. Ruchi Kohli, Adv.
Mr. Madhav Sinhal, Adv.
Mr. Padmesh Mishra, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Ajay Vikram Singh, AOR
Mrs. Priyanka Singh, Adv.
Mr. Pankaj Kumar, Adv.
Mr. Omkar, Adv.
Ms. Garima Singh, Adv.
Mr. Shubham Singh, Adv.

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

- 1 The petitioner had invoked the jurisdiction of the High Court of Delhi in Writ Petition (Criminal) No 1311 of 2023. The High Court heard the petition at some length and passed interim orders, including for the medical evaluation of the petitioner.

2 On 4 July 2023, when the petition came up before the High Court, the following order was passed:

“After some arguments, and in view of the decision of the Hon'ble Supreme Court of India in Mohammad Salimullah and Another Vs. Union of India and Others reported as 2021 SCC OnLine SC 296, whereby it has been observed that the rights guaranteed under Articles 14 and 21 of the Constitution of India are available to all persons who may or may not be citizens of India, and the right not to be deported, is ancillary to the right to reside or settle in any part of the territory of India guaranteed under Article 19 (1) (e) of the Constitution of India; learned counsel appearing on behalf of the petitioner seeks leave to withdraw the present writ petition. with liberty to approach the Hon'ble Supreme Court, by way of an appropriate application in W.P. (Civil) No. 793/2017, which is still pending adjudication before the Hon'ble Apex Court, in accordance with law.

Leave and liberty granted.

The writ petition is dismissed as withdrawn and disposed of accordingly. Pending applications also stand disposed of.”

3 In view of the above position, we were inclined to tag the present petition with **Mohammad Salimullah v Union of India**¹.

4 Counsel appearing on behalf of the petitioner, however, submits that the petitioner does not desire to have the present petition tagged with the pending petition, noted above, since the issues which have been raised are distinct and pertain to:

- (i) The procedure which was followed in detaining the petitioner; and
- (ii) The medical facilities available to deal with her condition.

5 Counsel appearing on behalf of the petitioner has specifically stated during the course of her submissions that the validity of the proposed deportation does not form the subject matter of these proceedings.

1 Writ Petition (Civil) No 793 of 2017

6 During the course of the hearing, Ms Aishwarya Bhati, Additional Solicitor General has placed on the record the medical papers, including the treatment which has been afforded to the petitioner.

7 The petition was withdrawn before the High Court of Delhi specifically in view of the pendency of the proceedings in **Mohammad Salimullah** (supra). As noted above, the petitioner does not seek to get the present petition tagged with **Mohammad Salimullah** (supra) since, according to counsel for the petitioner, the issues which have been raised are different.

8 In that view of the matter, it is only appropriate and proper that the petition before the High Court of Delhi is permitted to be revived as the issues raised in the present petition can be addressed before the High Court. We keep open all the rights and contentions of the petitioner in that regard. The petitioner would be at liberty to seek interim directions before the High Court of Delhi.

9 Writ Petition (Criminal) No 1311 of 2023 is accordingly revived by setting aside the order of the High Court of Delhi dated 4 July 2023 for reasons indicated above.

10 In terms of the statement which has been made before this Court by the Additional Solicitor General, we direct that all requisite medical treatment shall be provided to the petitioner in accordance with medical advice tendered by the G B Pant Institute of Post Graduate Medical Education and Research and Dr Ram Manohar Lohia Hospital.

11 The petition is accordingly disposed of.

12 A copy of this order shall be forwarded by the Registrar (Judicial) of this Court to the Registrar (Judicial) of the High Court of Delhi.

13 Pending application, if any, stands disposed of.

**(SANJAY KUMAR-I)
DEPUTY REGISTRAR**

**(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR**