

Blow for SA inmates in jail abroad

Written by ZELDA VENTER

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In what could be seen as a major blow for South Africans serving prison sentences abroad, the Pretoria High Court yesterday rejected a mother's plea for an order compelling the SA government to reconsider her request to enter into a prisoner transfer agreement to have her drug-smuggling son serve the remainder of his prison sentence on home soil.

Patricia Gerber wanted the government to enter into a prisoner exchange agreement with the Republic of Mauritius which would allow her son, Johann, to return home.

The government, however, said it would not enter into any prisoner transfer agreements with any country at this stage.

The minister of correctional services, in giving reasons why the government would not enter into prisoner exchange agreements at this stage, said policy and political considerations were infused in such a decision. This included possibly excluding certain crimes such as drug smuggling.

There were also cost considerations which had to be taken into account in deciding on a particular prisoner exchange agreement. At present, 1 049 South Africans were serving jail sentences in Brazil alone and an undetermined number of prisoners were in jails in other countries throughout the world.

Judge Natvarial Ranchod yesterday said the issue of prisoner exchange agreements involved international relations and a range of other factors. He said it was up to the executive to determine the scope and ambit and other relevant considerations of a prisoner exchange agreement and it was not up to the court to interfere. He said Correctional Services in any event said it might at a later stage decide to enter into a prisoner exchange agreement with Mauritius.

One of Gerber's arguments in court was that Mauritius was willing to enter into such an agreement with South Africa and even provided the government with a draft in this regard to consider.

But, the judge said, the fact that Mauritius was willing to enter into an agreement did not compel South Africa to enter into such an agreement.

He said the submission by the government that there were a number of things to be taken into consideration first, made sense. "There are various factors to be considered, and for this reason the government has decided not to enter into a prisoner exchange agreement with Mauritius. However, the decision has not been cast in stone. It has left open the possibility that it may do so in future after considering all the factors," the judge said.

Johann Gerber, 24, and the other South Africans in jail abroad will meanwhile have to remain where they are. Johann has already served three years of his nine-year sentence in Mauritius's

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Beau-Bassin Prison and he is due to remain there until 2016.

He was 20 when he was convicted in June, 2007 of smuggling 920g of heroin - 92 pellets - in his stomach into Mauritius. He claimed he was coerced into smuggling the drugs by a syndicate. His mother said it was extremely difficult and costly to visit him in Mauritius.

Various other families of prisoners serving sentences abroad attended the initial court case and saw it as a ray of hope for them to have their loved ones returned.

Judge Ranchod meanwhile did not order Gerber to pay the government's legal costs, even though she had lost her case.

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