

Court On Its Own Motion vs Govt Of Nct Of Delhi & Anr on 3 March, 2021

Author: Siddharth Mridul

Bench: Siddharth Mridul, Talwant Singh

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 3080/2020

COURT ON ITS OWN MOTION Petitioner
Through: Court on its own motion

versus

GOVT OF NCT OF DELHI & ANR Respondents
Through: Mr. Kanwal Jeet Arora, Member Secretary,
DSLISA
Mr. Sandeep Goel D.G. (Prisons) Mr.
Rahul Mehra, Standing Counsel (Criminal)
with Mr. Chaitanya Gosain and Mr.
Amanpreet Singh Advocates

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH
ORDER

% 03.03.2021 The present matter has been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

1. Mr. Kanwaljeet Arora, Member Secretary, Delhi State Legal Services Authority, in compliance of the directions passed by this Court vide order dated 18.02.2021, has placed on record the Minutes of Meeting of the High Powered Committee convened on 17.02.2021.

2. This Court has perused the said Minutes of meeting of the High Powered Committee, particularly the observations as well as the recommendations made under the head: -

"ITEM NO. 4:- TAKING STOCK OF THE CURRENT SITUATION INSIDE THE JAIL
AND IN DELHI FOR DELIBERATIONS ON EXTENSION OF INTERIM BAIL"

3. The Members of the High Powered Committee while making the observations and recommendations under the above-referred head, i.e. ITEM No. 4 had taken stock of COVID-19 situation inside the jail premises; and they had also gone through the Delhi State Health Bulletin on

Covid-19 of last 3 weeks so as to assess the current situation of COVID-19 in Delhi NCR.

4. It was observed by the High Powered Committee in the Minutes of Meeting dated 17.02.2021 that the date wise tabulated chart of the Positivity rate, based on the tests conducted and positive cases reported between 26.01.2021 to 17.02.2021 reflect a declining trend in COVID- 19 cases in Delhi NCR. Furthermore, the Minutes of Meeting dated 17.02.2021 of the High Powered Committee record that, as on 17.02.2021 there was only 01 active case of Prison Inmate and no active case of COVID-19 amongst the Prison staff of Delhi Jails.

5. Relevant portion of the Minutes of Meeting of the High Powered Committee dated 17.02.2021 reads as under:-

"Having gone through the improved situation with respect to COVID-19 in Delhi NCR Region as compared to the one which existed last year, Members of the Committee, reminded themselves of the object for which it was formed by Hon'ble Supreme Court of India in 'Suo Motu Petition (Civil) No.1/2020 -In Re: Contagion of COVID-19' i.e. for determining class/category of prisoners who can be released on interim bail/parole depending not only upon severity of offence, but also on nature of offence and / or any other relevant factor.

This committee was constituted by Hon'ble Supreme Court owing to unprecedented circumstances created due to Pandemic, resulting into lockdown and restricted functioning of the Courts, and for decongesting the jails, so that the principle of social distancing can be followed and spread of COVID-19 can be prevented inside the prisons. Members of the Committee also reminded themselves that the subsequent order dated 13.04.2020 of Hon'ble Supreme Court, whereby Hon'ble Supreme Court has clarified that it has not directed the States to compulsorily release the prisoners.

On the basis of directions of Hon'ble Supreme Court, the Members of the Committee reminded themselves that for fulfilling the objects of its formation, it is to be kept in mind that the benefits of interim bail granted in such circumstances, cannot be to the detriment of social order.

Members of the Committee are of the opinion that this arrangement was made on temporary basis and was never meant to supplement the otherwise recognized 'principles of grant / refusal' of bail. Further, these measures were taken when owing to the lockdown and prevailing circumstances there was restricted functioning of the Courts. The situation however has changed considerably now, therefore, this temporary measure cannot be extended till perpetuity.

Keeping in mind the orders No.40-3/2020-DM-I(A) dated 30.09.2020 passed by Govt. of India regarding Unlock-5 effective from 15.10.2020, and taking into consideration consequent change in circumstances including the Office Order No. 35/RG/DHC/2021 dated 14.01.2021 of Hon'ble High Court whereby all the Courts

including High Court of Delhi and Courts subordinate thereto have resumed functioning through physical mode / video conferencing mode, this committee, has decided not to further relax the criteria for the purposes of recommending grant or extension of interim bail to the UTPs.

Members of the Committee have also gone through the Minutes of last meeting wherein, it is resolved that if the situation of COVID-19 in Delhi remains the same or reveals a declining trend, no further extension of interim bail shall be made by this Committee on the aspect of COVID-19. All such UTPs thus were adequately notified to move their respective Courts seeking regular bail through their private counsel or by panel lawyer of DSLSA, as the case may be, for grant of regular bail.

Consequently, the Members of the Committee are of unanimous opinion that in terms of the present COVID-19 situation in Delhi and also considering that number of COVID-19 positive inmates inside the jail premises are negligible, if compared to the present prison population, thus, there are no grounds for recommending further extension of interim bail.

It is resolved accordingly.

6. Moreover, the Hon'ble Supreme Court of India in SLP (C) Nos.

13021/2020 titled "National Forum on Prison Reforms Versus Government of NCT of Delhi and Others" (Arising out of final judgment and order dated 20.10.2020 in WPC No. 3037/2020 passed by full bench of the High Court of Delhi) in its order dated 01.03.2021 has observed that: -

"In view of the improving situation, we direct the 2318 prisoners who were granted interim bails by the trial court and 356 prisoners who were granted interim bail by the High Court to surrender within 15 days from today"

7. This court, vide its order dated 18.02.2021, while awaiting the Minutes of Meeting dated 17.02.2021 of High Powered Committee had extended the interim bails granted to 3499 UTPs under various criteria's laid down by the High Powered Committee, for a period of 15 days from the dates their respective interim bails granted earlier, were expiring.

8. Mr. Sandeep Goel Director General (Prisons) has informed this Court that the interim bails so granted to 3499 UTPs shall expire with effect from 07.03.2021 onwards.

9. Accordingly, in view of:

a The observations and recommendations made by the High Powered Committee, as mentioned in Para 5 supra; b Improved situation of COVID-19 in Delhi NCR; c Resolution passed by the High Powered Committee vide its Minutes of Meeting dated 17.02.2021 of not recommending further extension of interim bails to 3499 UTPs; d

Grant of adequate notice and time by High Powered Committee in its Meeting dated 18.01.2021 and 17.02.2021 to all the UTPs granted interim bails under the criteria laid down by it to approach their court concerned seeking regular bail;

e Directions passed by the Hon'ble Supreme Court vide its order dated 01.03.2021 in SLP (C) Nos. 13021/2020, whereby 2318 prisoners granted interim bails by trial courts and 356 prisoners granted bail by the High Court have been asked to surrender within 15 days;

this court is not inclined to further extend the period of interim bail of 3499 UTPs granted under various criteria laid down by the High Powered Committee in its several meetings.

10. It is therefore directed that all the 3499 UTPs granted interim bails under the various criteria laid down by the High Powered Committee, who have not obtained regular bails from their Court concerned, or any other superior court to its court concerned, shall surrender before the Jail Superintendent(S) upon the expiry of the period of their interim bail commencing from 07.03.2021.

11. As the 3499 UTPs were admitted to interim bails on different dates, accordingly the period of their interim bails will expire with efflux of time on different dates. Therefore, there is no requirement to fix any specific date for surrender of these 3499 UTPs.

12. Needless to say that all these UTPs may invoke the jurisdiction of concerned Court for grant of regular bail. The concerned Courts on filing of applications by such UTPs may consider the same on merits, in accordance with law.

13. The Director General (Prisons) shall ensure that this order is conveyed to all the 3499 UTPs by telephone, as well as, through all other available modes. Mr. Kanwal Jeet Arora, learned Member Secretary, DSLSA shall coordinate with the Director General (Prisons) in this regard.

14. A copy of this order be provided to the Director General (Prisons), Mr. Rahul Mehra, Standing Counsel (Criminal) and Mr. Kanwal Jeet Arora, learned Member Secretary, DSLSA electronically for compliance and be also uploaded on the website of this Court forthwith.

15. No further directions are now required in this suo motu petition.

Hence, the petition stands disposed off.

16. A copy of this order be provided to the Director General (Prisons), Mr. Rahul Mehra, Standing Counsel (Criminal) and Mr. Kanwal Jeet Arora, learned Member Secretary, DSLSA electronically for compliance and be also uploaded on the website of this Court forthwith.

SIDDHARTH MRIDUL, J TALWANT SINGH, J MARCH 03, 2021/dn