

[NON-REPORTABLE]

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

I.A NO.179931 OF 2022
IN
SUO MOTO WRIT PETITION (C) NO.01/2020

In Re: Contagion of Covid-19 Virus in Prisons

And

Director General (Prisons)

J U D G M E N T

M. R. Shah, J.

1. Present application has been preferred by the Director General (Prisons), New Delhi seeking appropriate directions from this Court for surrender of prisoners/inmates who had been released on Emergency Parole or interim bail pursuant to the recommendations of the High-Powered Committee, in compliance with the

Orders dated 23.03.2020, 07.05.2021 and 16.07.2021 passed by this Court in Suo Moto Writ Petition No.01/2020, as the COVID-19 situation has now normalized.

2. Ms. Aishwarya Bhati, learned ASG appearing on behalf of the applicant has submitted that this Court in Suo Moto Writ Petition No.01/2020 to prevent the spread of COVID-19 virus among prisoners in over-crowded prisons passed an Order dated 23.03.2020 directing each State/Union Territory to constitute the High-Powered Committee to determine the class of prisoners who could be released on Parole or on interim bail on such conditions, as may be determined by the High-Powered Committee.

2.1 It is submitted that in compliance with the order dated 23.03.2020 passed by this Court a High-Powered Committee was constituted in Delhi to determine the category of prisoners i.e. convicts and under-trial prisoners for being released on Emergency Parole and

Interim Bail. It is submitted that in 1st phase in 2020, a total of 4683 (1184 convicts and 3499 under-trial) prisoners were released. It is submitted that thereafter looking to the unprecedented surge in COVID-19 cases during the second wave, this Court vide order dated 07.05.2021 directed the High-Powered Committee to grant parole of 90 days to all the inmates who had been released pursuant to the order dated 23.03.2020 subject to the imposition of appropriate conditions. It is submitted that in compliance of the order dated 07.05.2021 passed by this Court, the High-Powered Committee constituted for Delhi convened a meeting dated 11.05.2021 wherein the High-Powered Committee observed that the inmates who were released last year could be released forthwith in view of the ranging pandemic. It is submitted that pursuant to which a total of 3630 under trial prisoners and 751 convicts were released on interim bail or emergency parole till date in terms of the Orders passed by this Court. It is submitted

that further thereafter on 16.07.2021 this Court observed that the prisoners who were already been released from jail in accordance with the above-mentioned orders should not be asked to surrender before the prison authorities till further orders. It is submitted that thereafter almost a year later, in June, 2022 this Court vide order dated 03.06.2022 in various I.As and SLPs had granted 15 days' time to the prisoners/applicants/petitioners to surrender before the prison authorities.

2.2 It is submitted that thereafter pursuant to the order dated 03.06.2022 the applicants sent a letter dated 07.09.2022 to the Member Secretary, Delhi State Legal Service Authority, Patiala House Court, New Delhi seeking clarification regarding surrender of prisoners who were released on the recommendations of the High-Powered Committee. It is submitted that in reply the DSLSA has stated that no further directions however been issued by the authority with respect to similar

matters pending in Delhi and therefore the authority cannot give any further clarification regarding the fate of undertrial prisoners/convicts released from the Delhi Prisons pursuant to the recommendations filed by the High-Powered Committee. It is submitted that therefore the present application has been preferred for appropriate directions.

2.3 Ms. Bhati, learned ASG has pointed out that out of total 751 convicts who were released on emergency parole, 71 convicts have surrendered voluntarily till date; similarly out of 3630 undertrial prisoners who were released on interim bail on the basis of criteria laid down by High-Powered Committee, 267 undertrials have surrendered in Jail with the order of Court. It is pointed out that in other words, the number of convicts who are still on emergency parole is 680 and number of undertrial who are still on interim bail is 3365.

2.4 It is submitted that all those undertrials/convicts were released on Emergency Parole/Interim Bail due to the

raging COVID-19 situation and not on merits. It is submitted that as the things have now improved, they have to surrender before the concerned jail authorities. Reliance is placed on the order passed by this Court dated 03.06.2022 by which this Court while dismissing all the various IAs as well as SLPs granted 15 days' time to the applicants/petitioners/prisoners to surrender before the prison authorities.

3. We have heard Ms. Bhati, learned ASG appearing on behalf of the applicant, Director General (Prisons), New Delhi. The present application has been preferred by the Director General (Prisons), New Delhi seeking appropriate directions for surrender of prisons/inmates who had been released on Emergency Parole or Interim Bail pursuant to the recommendation of the High-Powered Committee, in compliance with the orders dated 23.03.2020, 07.05.2021 and 16.07.2021 passed by this Court in Suo Moto Writ Petition No.01/2020, as the COVID-19 situation has now normalized.

3.1 It is not in dispute and cannot be disputed that all those undertrial prisoners/convicts were released on interim bail/emergency parole taking into consideration the over-crowding in the prisons and to prevent the spread of COVID-19 virus among prisoners in over-crowded prisons. All those undertrial prisoners/convicts therefore were not released on merits but were released on the aforesaid ground alone. Therefore, now when the COVID-19 situation has now been normalized, all those prisoners/inmates/undertrial prisoners/convicts who are/were released on emergency parole/interim bail have to surrender before the concerned prison authorities. As such a similar order has been passed by this Court in the order dated 03.06.2022 while dismissing IAs No.80311, 80314 & 80316 of 2022 in Suo Moto Writ Petition (Civil) No.01/2020 and SLP (Crl.) Nos. 5507-5508 of 2022 and 5516 of 2022 by which while dismissing the IAs/SLPs this Court has granted further 15 days' time to those

applicants/petitioners/prisoners to surrender before the prison authorities.

- 3.2 At this stage it is required to be noted that so far as some other States are concerned, all those prisoners/inmates who were released on interim bail/emergency parole pursuant to the recommendation of the High-Powered Committee constituted in compliance with the orders passed by this Court passed in *Suo Moto Writ Petition No.01/2020* have been recalled.
4. In view of the above, we allow the present application with an observation and direction that all those under trials/convicts who have been released on Emergency Parole/Interim Bail pursuant to the recommendation of the High-Powered Committee, in compliance of the Orders dated 23.03.2020, 07.05.2021 and 16.07.2021 passed by this Court in *Suo Moto Writ Petition No.01/2020* have to surrender before the concerned prison authorities within 15 days.

The present order be intimated to the concerned Accused/inmates by the concerned jail authorities that they have now to surrender within the period of 15 days. However, it is observed that thereafter after the concerned prisoners/inmates surrender before the concerned prison authorities it will be open for the concerned undertrials to pray for bail before the competent court and their applications be considered in accordance with law and on its own merits. Similarly, after the surrender by the concerned convicts who are released on Emergency Parole it will be open for them if so advised to pray for suspension of sentence before the concerned Court in their appeals which might have been pending which also may be considered in accordance with law and/or on merits.

With this the present application stands disposed of.

.....J.
[M.R. SHAH]

New Delhi;
March 24, 2023

.....J.
[C.T. RAVIKUMAR]

