


HIGH COURT OF MADHYA PRADESH: JABALPUR

Endt. No. R/2650 /
III-2-3/67

Jabalpur, dt 8 / 06 / 2021

The copy of extract of the minutes of High Power Committee Meeting convened on 04-06-2021 under the Chairmanship of Hon'ble Shri Justice Prakash Shrivastava received from Member Secretary, M.P. State Legal Services Authority, Jabalpur to:-

- (i) The District & Sessions Judge(all in the State)/Chairperson, District Legal Services Authority(DLSA) for necessary compliance by the Judicial Officers in your District with the assistance of Secretaries DLSA ?
- (ii) The District & Sessions Judge(all in the State) are requested to submit consolidate report of the action taken at their end to the Member Secretary, M.P. State Legal Services Authority, Jabalpur directly.
- (iii) The Member Secretary, M.P. State Legal Service Authority Jabalpur for information.


08/06/2021
(R.P.S.CHUNDAWAT)
REGISTRAR(DE)

Extract of the Minutes of High Power Committee Meeting held on
Dated 04.06.2021

**ITEM NO. 01 CONSIDERATION OF STATUS OF DE-CONGESTION IN
PRISONS PURSUANT TO ORDERS BY DIVISION
BENCH IN WP 9320/2021 & WP 8391/2020.**

The Members of the Committee were pleased to peruse the data forwarded by the Director General (Prisons) which reflects that pursuant to directions passed by Hon'ble the Division Bench and the High Power Committee, **11,711** prisoners have been released in the period between 01st May to 3rd June 2021. However, it was observed that despite the release of prisoners in such large numbers, on account of new admission of prisoners in the same period the current prison occupancy is 43,366. It was also brought to notice that the jail had expanded its existing capacity to lodge **29,525** from the previous capacity of 28,675.

The DG (Prisons) apprised that a large percentage of prisoners are under the category of under trial prisoners, some of whom have been confined on account of non-compliance of pandemic protocol while several other have been arrested for minor offences.

The ACS (Home) apprised that steps are being taken for due compliance by Police Officials in accordance with the guidelines issued by the Supreme Court in *Arnesh Kumar Vs. State of Bihar and Anr (2014 8 SCC 273)*.

The Members of the Committee accordingly **resolved** :

ACS (Home) shall take steps for emergent due compliance in accordance with the directions issued by the Division Bench in its order dated 17.05.2021 for adherence to the guidelines in *Arnesh Kumar* (supra).

**ITEM NO. 02 CONSIDERATION OF SANITIZATION & SECURITY
MEASURES FOR HEALTH OF JAIL INMATES.**

The DG (Prisons) apprised that out of **42,767** prisoners in MP jails who were tested for Corona, only 667 had tested positive. As on 03/06/2021, there are only **82** who are positive, the rest having been successfully treated and tested negative. It was also brought to notice that due to effective sanitation and appropriate health, hygiene and medical facilities in the jail along with special medical camps in compliance with the directions of the High Power

Committee, there has been a rapid decline in the positivity rate and the current percentage of corona positive prisoners is confined to **0.18%** of the prison population. Further, the majority of the prisoners who tested positive are from amongst those who have newly entered the jail premises. Out of the existing 131 jails, currently there has been no reported incidence of corona in 90 jails.

Additional Director Health Services brought to kind notice that every new prisoner is subjected to RT-PCR test while special vaccination drive is being taken up for the prisoners. Medical camps are being held on a regular basis and drug availability for prison inmates is being ensured. The moment the oxygen level is below 94 he is shifted to nearest hospital for regular monitoring and treatment.

ACS Home brought to notice that if all the jail inmates are vaccinated there could be further effective curtailment of corona incidence within the jail.

The Members of the Committee accordingly **resolved:**

The State Government shall take necessary steps for universal vaccination of all jail inmates within a period of 45 days.

ITEM No. 3 TO 5

- ◆ **CONSIDERATION OF MATTERS PERTAINING TO THOSE CONVICTS WHO HAVE ALREADY SERVED 1/3RD OF THEIR SUBSTANTIVE SENTENCE AND WHO HAVE SERVED INCARCERATION OF 7 YEARS OR MORE ON BEING SENTENCED TO LIFE IMPRISONMENT.**
- ◆ **CONSIDERATION OF RELEASE OF UNDER TRIAL PRISONERS FACING TRIAL IN MATTERS EXCLUSIVELY TRIABLE BY THE COURT OF MAGISTRATES.**
- ◆ **CONSIDERATION OF MATTERS PERTAINING TO RELEASE OF UNDER TRIAL AND CONVICT WOMEN PRISONERS.**

To avoid repetition of directions, agenda items 3 to 5 were deliberated upon simultaneously.

As per the information from the office of the Director General (Prisons) out of the 2226 prisoners who have served 1/3rd of the maximum punishment, 200 have been released on parole while the parole applications of 1000 prisoners are pending before the concerned District Magistrates. With regard to the 6,888 prisoners serving life imprisonment sentence who have already undergone period of 7 years of incarceration, the parole matters of 3,006 prisoners have

been allowed while 2,000 parole applications are pending at the offices of District Magistrates.

Further, the data pertaining to under trial prisoners whose matters are exclusively triable by Court of Magistrates reflect that out of 8781 matters, interim bail applications have been filed in 4,751 matters. The DG (Prisons) apprised that currently 2301 undertrials in matters exclusively triable by Court of Magistrates have been enlarged on interim bail.

Regarding the data pertaining to release of women prisoners, as on 1st May there were 617 convict women prisoners lodged in jails while on 3rd June there are 579 women prisoners lodged in jails. Further, it has been apprised that most of the convicted women prisoners are confined in jails along with the remaining family members and the extended family has not come forward to facilitate their applications for parole while, relatives and neighbors have effectively registered their resistance to the grant of parole. It was also brought to notice that the District Magistrate passes an order for parole viewing all the circumstances of the case and the whole process of examination of matters takes a process of around 3-6 months.

The Hon'ble Chairman was pleased to observe that directions passed by Hon'ble the Division Bench are to the effect that "*merits of the case need not be looked into while passing the order either for grant of emergent parole or grant of temporary bail*". This order must be adhered keeping in view the following exceptions as grounds for denial of emergent parole or temporary bail a) Those prisoners who are found to have misused the liberty of emergent parole or temporary bail, for the reasons of committing an offence during such parole or interim bail or after grant of such facility, pursuance to the earlier order of Supreme Court, b) Failed to surrender in time in terms of conditions of grant of parole or the bail order; c) Habitual offenders, those convicts or under trial prisoners, found involved in multiple number of criminal cases, having minimum three criminal cases or more.

The Members of the Committee after due deliberation and thoughtful consideration **resolved:**

- (i) All duty holders must adhere to the aforesaid directions for grant of emergent parole or grant of temporary bail as the case may be.

(ii) The Jail Administration shall take requisite measures for the forwarding of interim bail applications and applications for grant of emergent parole.

(iii) Legal Services Institutions shall extend all necessary support by way of spreading awareness and facilitation in filing of applications on behalf of the prisoners.

**ITEM NO. 06 CONSIDERATION OF MATTERS PERTAINING TO
RELEASE OF CHILDREN IN OBSERVATION HOMES**

Principal Secretary (WCD) brought to kind notice that pursuant to bail applications filed on behalf of children in Observation Homes, several children have been released on temporary bail and the present occupancy in Homes is limited to 164.

The Committee accordingly **resolved**:

(i) Legal Services Institutions shall render all possible assistance for filing bail applications on behalf of all children in Observation Homes at the earliest.

**ITEM NO. 07 CONSIDERATION OF VIEWPOINTS OF MR.
SANKALP KOCHAR AMICUS CURIE AND MR.
CHANDER UDAY SINGH SENIOR ADVOCATE**

Shri Sankalp Kochar, *amicus curiae* submitted his viewpoints for de-congestion on parameters as enunciated by Hon'ble the Division Bench WP 9320/2021. He also requested that the process of forwarding applications be streamlined and a timeline be setup for deciding applications for interim bail and also for parole. Apart from this he also proposed that undertrial prisoners who are behind bars for more than 5 years be released on interim bail and those prisoners who are unable to give security be released on execution of personal bail bonds.

The learned Senior Advocate Shri Chander Uday Singh suggested measures for sensitization of the duty holders, spreading awareness among all prisoners of their right to seek release, automatic filing of forms, elimination of requirement for case to case determination and the security amount. Apart from this he also proposed that matters of children in conflict with law confined in the Homes be also expeditiously resolved.

Both the *amicus curiae* and Senior Advocate also proposed measures for uploading data and monitoring, safe transit of prisoners, maintenance of ICMR Guidelines with full time doctor along with 2-3 Para Medics.

The DG Prisons brought to kind notice that while the Prison Administration shall adhere to the directions passed by Hon'ble the Court and this Committee, requisite steps are being taken for making the prisoners aware of their entitlement to interim bail or emergent parole as the case be. Further, he also informed that in the last couple of months two prisoners who had been enlarged on emergent parole are alleged to have committed murder, one committed suicide while one has been murdered. Though the number may seem insignificant, however each such instance in a short time span creates an impact on society at large. Therefore though a mathematical approach cannot be adopted, the matters are being expedited and viewed liberally. Apart from this, he also apprised that prisoners on the successful completion of two years of good behavior prisoners are entitled for parole.

The Director (Prosecution) expressed that apart from directions passed by Hon'ble the Division Bench and this Committee, the provisions of Section 437(6) CrPC may be widely adhered to for de-congestion in prisons.

The Committee was pleased to observe that a balanced view be taken of the situation in light of the current pandemic and the impact of release of prisoners on society. By way of judicial pronouncement, the Division Bench has laid down the principles that must be adopted while considering release of prisoners either on emergent parole or on temporary bail.

After due deliberations the Committee accordingly **resolved:**

- (i) Emergent measures to be taken by the prison administration and the trial courts in terms of the directions issued by Hon'ble the Division Bench in WP 9320/2021 to substantially address the submissions of the *amicus curiae* pointed out above.
- (ii) The Jail Authorities shall ensure that all prisoners who have successfully completed two years of good behavior be considered for parole in accordance with MP Leave Rules for Prisoners.
- (iii) Legal Services Institutions shall render assistance for spreading awareness and facilitate legal assistance for expediting resolution of matters.

(iv) The ACS (Home) shall take steps for simplification and relaxation of existing provisions in the Jail Manual and Leave Rules by way of amendment in order to cope up with the exigencies of the situation.

(v) Principal Secretary (Law & Legislative Affairs) shall revisit the existing provisions in the Jail Manual and the MP Bandi Chhutti Niyam, 1980 in view of the global pandemic & the current need for de-congestion.

(vi) DG (Prisons) and ACS (Home) shall take necessary steps for uploading data and monitoring, safe transit of prisoners, maintenance of ICMR Guidelines and appointment of medical personnel.

**ITEM NO. 08 ANY OTHER ITEM WITH THE KIND PERMISSION OF
THE CHAIR.**

No other item was taken up for deliberation.

-----XXX-----