

**2022 LiveLaw (SC) 1007**

**IN THE SUPREME COURT OF INDIA**

**SANJAY KISHAN KAUL; J., ABHAY S. OKA; J.**

**Petition(s) for Special Leave to Appeal (Crl.) No(s). 529/2021; 29-11-2022**

**SONADHAR versus THE STATE OF CHHATTISGARH**

**Code of Criminal Procedure, 1973; Section 439 - Prisoners in jail despite getting bail as they can't fulfil conditions - Supreme Court directs States to furnish data of undertrial prisoners who remain in bail as they can't satisfy surety or comply with other conditions.**

(Arising out of impugned final judgment and order dated 19-10-2012 in CRA No. 118/2008 passed by the High Court of Chhatisgarh at Bilaspur)

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**ORDER**

**SMWP(Crl.) No. 4/2021**

Taken on Board.

**EXECUTION OF BAIL ORDERS**

At the inception, we flag the issue of under trial prisoners who continue to be in custody despite having been granted benefit of bail on account of their inability to fulfill the conditions of bail. In order to have a realistic estimate of it, each jail authority would be required to convey to the State Government the data in this behalf and the State Government would then have to send it to NALSA so that a scheme can be worked out in this behalf. Assistance would have to be provided seeking variation of the terms of the bail in such cases.

We thus call upon all the State Governments to issue directions to the jail authorities to submit the details of such cases in a chart form indicating ( a) the name of the under trial, (b) the offence charged, (c) the date when the bail was granted and ( d) the conditions of bail which have not been met and how long that period from the date of the bail order till now. The State will ensure that these details are made available by the jail authorities to them within a period of 15 days from today and forward the data to NALSA within one week thereafter, whereafter the NALSA will process for making necessary suggestions how to deal with this issue and of course provide legal assistance wherever necessary. The assistance may be obtained from Tata Institute of Social Sciences (TISS) by NALSA in this behalf as it is stated that such an endeavour has been made by them already in Maharashtra.

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**E-PRISON MODULE**

Mr. Devansh A. Mohta, learned Amicus Curiae has drawn our attention to the developments in Karnataka where the Karnataka State Legal Services Authority informed that e-prison Module has been implemented in all 52 prisons in Karnataka but "legal aid information module" was not enabled in Karnataka prisons. The suggestion was that the said legal module be enabled to facilitate the categorizing of prisoners receiving legal aid.

The steps taken in pursuance thereto with the meeting held with NALSA along with three Amici assisting us here, has produced a result that e-prison module, having important features, which enable effective monitoring, the e-prison portal is ready to be uploaded accordingly. The suggestion from the learned Amicus is that this should be implemented across the country with coordination between State Legal Services Authorities and the prison authorities. The needful be completed within a period of two months and the compliance be informed to NALSA so that it can be placed before this Court.

One of the suggestions made is e-prison module can be modified for uploading data regarding orders granting bail, status of implementation of the orders granting bail and orders of acquittal.

The needful be implemented within the aforesaid period of time.

It is suggested by learned Amicus that if the aforesaid experimentation proves to be fruitful, the same should be extended across the country in all the States and the NALSA will specifically inform the State Legal Services Authorities though they are already represented before us and should start operation forthwith.

**COMPLIANCE OF PRE-MATURE DIRECTIONS BY THE STATES**

Ms. Liz Mathew, learned Amicus Curiae points out that in e-Prisons application suite is developed by NIC which computerizes and integrates all activities relating to prison management. It is suggested that in respect of life convicts a field for eligibility of filing premature application may be incorporated along with another one for status of premature release application as it would facilitate easy compliance of the timeline directed by this Court in order dated 07.07.2021.

We are of the view that this is a desirable process and should be forthwith explored by NALSA in collaboration with the Ministry of Home Affairs and it will be coordinated by Mr. K.M. Nataraj, learned ASG who is appearing in this matter. It has also been mentioned that for the special remission in connection with Azadi Ka Amrit Mahotsav, a special module was developed by NIC and Ministry of Home Affairs and it has been given to understand with discussion with the authorities that this has not been incorporated with respect to premature release in normal course.

Thus we consider proper to direct that NALSA and Ministry of Home Affairs may explore how premature release for life sentences cases can be included in the system for periodic review so that the matter is not delayed.

List with Suo Moto Writ Petition (CrI.) No. 4 /2021 on 31.01.2023.

We may once again like to re-emphasize the commendable task being done by Mr. Gaurav Agrawal, Mr. Devansh A Mohta and Ms. Liz Mathew, learned Amici Curiae.