

2023 LiveLaw (SC) 610

**IN THE SUPREME COURT OF INDIA
SANJAY KISHAN KAUL; J., SUDHANSHU DHULIA; J.
SUO MOTO WRIT PETITION (CRL.) NO. 4/2021; 25-07-2023
IN RE POLICY STRATEGY FOR GRANT OF BAIL**

Bail - Courts should impose realistic conditions of bail considering the economic and social position of the undertrial prisons or else the act of grant of bail does not subserve its purpose.

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ORDER

SLP(CRI.) NO. 529/2021

STANDARD OPERATING PROCEDURE ON THE PROCESS OF PREMATURE RELEASE, PAROLE AND FURLOUGH OF PRISONERS, 2022

Ms. Liz Mathew, learned Amicus Curiae points out that the NALSA has formulated a Standard Operating Procedure (SOP) on the process of Premature Release, Parole and Furlough of Prisoners, 2022 and set forth the details thereof. The direction sought is to formally take the same on record and with a direction that respective States put into effect the procedure laid down therein.

On having perused so, we order accordingly.

Another direction sought is that the respective DLSAs and SLSAs. should review the process of consideration of premature cases on quarterly basis and if there is any delay or non adherence to the timeline, the same should be reported to the NALSA which can then engage with the State Government. If the same still does not produce any result, then it will be brought to the notice of the Court. We order accordingly.

E-PRISON MODULE

After setting forth the progress made qua the eprison module developed by the National Informatics Centre (NIC), Government of India, a direction is sought that the NIC and the respective State Governments would finalize state specific criteria and enter data with respect to all prisoners lodged across all the jails in all States, within the next two months.

We issue directions accordingly.

COMPLIANCE REPORT ON PREMATURE RELEASE DIRECTION BY STATES

The States of Haryana, Himachal Pradesh, Goa and Delhi have been examined under this and it is submitted by the learned Amicus Curiae that progress is by and large satisfactory. However, the State Sentence Review Board/competent authority should ensure that any applications pending should be cleared within the next three months.

We direct accordingly.

List on 31.10.2023.

SLP(CRI.) NO. 529/2021

The note submitted by Mr. Devansh A. Mohta, learned Amicus Curiae refers to different aspects of the E-Prison Module. Annexed to the report are the relevant charts. The report thereafter proceeds to information sharing protocol, existing landscape of data integration, data requirement for optimization of E-Prison Module and the recent initiative to enhance information sharing between e-prison and Court details which would facilitate complete tracking. Feed backs from the interaction with States has also been set out and certain immediate steps and directions are sought.

Immediate steps which are sought for implementaion of E-Prison Module are as under:

“The attention of this Hon’ble Court may be invited to certain aspects which may facilitate implementation of the e-prison module, namely:

- (i) Deployment of dedicated manpower for data entry at the prisons

(ii) State Authorities may be requested to formulate policy for imparting regular training in order to avoid disruption in carrying out the data entry service

(iii) The Trial Courts may provide unique IDs [Pre Trial Number IR CNR Number] while communicating with the prison authorities. The Chart reflecting States where the PTN Module is operational in Annexed and Marked as Annexure 8.”

In the conspectus of the aforesaid, following directions have been sought:

“(i) Category B States may be requested to report compliance regarding collation and forwarding of Data with the prison department.

(ii) Appropriate directions in consonance with aspects highlighted in para 25.”

Learned Amicus Curiae has pointed out that the States have not provided information in the format given due to which data processing is a problem. In this behalf, he has invited our attention to the fact that only States of Jharkhand and Maharashtra have given compliance, but the State of Jharkhand is the one which can be identified as having given information in the required format.

Information sharing protocol is now available and has been placed on record with the note of hearing today from page 46 onwards.

Before we give our imprimatur to the above, considering that the matter relates to State subject, it would be appropriate for the States to analyze the draft protocol submitted and if there are concerns, bring it to the notice of the learned Amicus Curiae within two months from today. NALSA is also at liberty to make its suggestions, if any.

List on 31.10.2023.

SMW(CrI.) NO. 4/2021

EXECUTION OF BAIL ORDERS

Mr. Gaurav Agrawal, learned Amicus Curiae points out that out of 5,380 undertrial prisoners, who had been granted bail, but still in custody as on 27.01.2023, over the last six months 4,215 prisoners have been released while 1165 prisoners have not been released. It is submitted that the reasons for this are manifold, including some time multi cases pending. The module in the e-prison software where automatic email alerts are being sent to the Secretary DLSAs if the accused remains in jail even after 7 days after grant of bail which is stated to be technically working well as per the NIC. Identifying of undertrials has become simplified once they are granted bail. The directions prayed for in this behalf is as under :

“a) One difficulty which was flagged by the Id. Member Secretary, NALSA was delay in disposal of the applications for modification of the bail conditions. It is, therefore, prayed that whenever application for modification of the bail condition is filed, the court may endeavour to dispose of the same within a reasonable period of say 2 weeks.

b) It may also be worthwhile to explore whether NALSA can develop a module for Ld. Judicial officers, alongwith the State Judicial Academies and have an orientation programme for the Ld. Judicial Officers on this aspect of the matter i.e. imposing reasonable bail conditions considering the financial condition of the prisoner and monitoring the release of accused granted bail.

c) The e-prison software for email alerts may be monitored by NALSA over the next 3-4 months and if there are any difficulties which are faced in the said software or if improvements are required, the same can be discussed and incorporated.”

We do believe that insofar as first direction is concerned, every endeavour must be made by the concerned courts that where they grant bail, this must be fruitful as imposition of conditions for bail which given the economic and social scenario, prisoner is unable to

meet, does not subserve the purpose and thus prompt attention should be given where the order of bail has not resulted in release.

We also believe that the development of a module for judicial officers along with State Judicial Academies which NALSA has suggested in para b) can be useful educating exercise.

We also accept the suggestion in sub para c) and NALSA may carry out the necessary exercise.

E-MAIL MY CASE STATUS

We take note of the report that either that system has been adopted or other satisfactory systems are working. No further orders are required.

PROVISIONS RELATING TO PLEA BARGAINING/ COMPOUNDING/PROBATION OF OFFENDERS ACT

A report has been received from the Allahabad High Court regarding number of cases identified and disposed of in this behalf which is enumerated as under:

Method	No. of cases identified	No. of cases disposed	Remaining
Method No.1 Plea Bargaining	1746	815	931
Method No. 2 Compounding of offences	74104	21545	52559
Method No. 3 Probation of Offender Act, 1985	885	408	477
Total	76735	22768	53967

The aforesaid shows progress, but we request the learned Amicus Curiae to find out as to the success rate of the same as the number of cases disposed of may include both successful and nonsuccessful endeavours.

List on 31.10.2023.

IA NO. 203408/2022 AND 203407/2022

These applications are filed by National Law University making suggestions for ensuring expeditious release of undertrials who have been granted bail. The instant solution suggested by the NIC is being implemented at present and if some bottlenecks are found, these suggestion will also be taken note of as alternative measures.

List on 31.10.2023 we appreciate the wonderful job done by the learned Amici Curiae in assisting the Court.