

ITEM NO.1

Court 4 (Video Conferencing)

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Criminal) No.162/2019

NISAR

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

WITH W.P.(CrI.) No.488/2021 (X)

(With appln.(s) for EXEMPTION FROM FILING O.T. ON IA 152004/2021 and GRANT OF BAIL ON IA 152005/2021)

W.P.(CrI.) No.398/2021 (X)

(With appln.(s) for EXEMPTION FROM FILING O.T. ON IA 122344/2021 and FOR GRANT OF BAIL ON IA 122346/2021)

W.P.(CrI.) No.446/2021 (X)

(With appln.(s) for GRANT OF BAIL ON IA 139312/2021 and APPLICATION FOR PERMISSION ON IA 155915/2021)

W.P.(CrI.) No.484/2021 (X)

(With appln.(s) for GRANT OF BAIL ON IA 150983/2021 and EXEMPTION FROM FILING O.T. ON IA 150984/2021)

W.P.(CrI.) No.494/2021 (X)

(With appln.(s) for GRANT OF BAIL ON IA 153410/2021 and EXEMPTION FROM FILING O.T. ON IA 153412/2021)

Date : 03-12-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s)

Mr. Z.U. Khan, Adv.
Mr. Yunus Malik, Adv.
Mr. Anish Maheshwari, Adv.
Mr. Aman Malik, Adv.
Mr. Samir Malik, AOR

WP 488/21, 398/21,
WP 446/21 & 484/21

Mr. Rishi Malhotra, AOR

WP 494/21

Mr. Santosh Krishnan, AOR

For Respondent(s)

Ms. Garima Parshad, Sr. Adv., AAG
Mr. Pradeep Misra, Adv.
Mr. Suraj Singh, Adv.
Mr. Bhuwan Chandra, Adv.
Mr. Manoj Kr Sharma, Adv.

Mr. Sarvesh Singh Baghel, AOR

Mr. Ajit Singh Pundir, AOR

Mr. Prashant Singh (A), Adv.
Ms. Swati Ghildiyal, Adv.
Mr. Mohd. Akhil, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. A.K. Sharma, Adv.

Mr. Vishnu Shankar Jain, Adv.
Ms. Sakshi Kakker, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 On 1 August 2018, a policy was framed by the Government of Uttar Pradesh with regard to the premature release of prisoners sentenced to life imprisonment, annually on the occasion of Republic Day. The policy, which was framed in exercise of the powers conferred by Article 161 of the Constitution, stipulated the procedure for considering the cases of prisoners serving a sentence of imprisonment for life. The policy was considered by this Court in an order dated 4 May 2021 in ***Beche Lal vs State of Uttar Pradesh*** AIR 2021 SC 2716.
- 2 The policy of 2018 has since been amended on 28 July 2021.
- 3 The issue in the present proceedings is whether the cases of those prisoners which were required to be considered but were not considered during the term of the earlier policy of 1 August 2018 would yet be governed only by

the new policy of 28 July 2021.

- 4 Mr Rishi Malhotra, learned counsel appearing on behalf of the petitioners has relied upon an order dated 16 November 2021 passed in Writ Petition (Crl) No 87 of 2021 [***Murari Lodh and Others vs State of Uttar Pradesh and Others***], in which, it has been directed that the State government would consider the cases for premature release, but clause 2(b) and 2(f) of the amended Policy dated 28 July 2021, shall not be taken into account by the State.
- 5 In this backdrop, we issue notice.
- 6 Ms Garima Prashad, learned senior counsel and Additional Advocate General for the State of UP accepts notice.
- 7 The State is permitted to file a counter affidavit within a period of two weeks specifically dealing with the issue of retrospectivity.
- 8 At this stage, we clarify that the Court will not be going into the individual facts of the large number of prisoners, who have been impleaded as parties to these proceedings since ultimately, the case of each individual prisoner would have to be considered by the appropriate authority in accordance with law. The only question which has been raised in aid of the petition under Article 32 of the Constitution is in regard to the applicability of the new policy to those cases which were not considered in terms of the earlier policy dated 1 August 2018.
- 9 List the Petitions on 17 December 2021.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master