

2025 LiveLaw (SC) 687

IN THE SUPREME COURT OF INDIA
K.V. VISWANATHAN; J., NONGMEIKAPAM KOTISWAR SINGH: J.
Miscellaneous Application No. 1086/2025 in Crl.A. No. 2295/2025
AFTAB versus THE STATE OF UTTAR PRADESH

Personal Liberty – Bail Order – Clerical Omission – Compensation for Unlawful Detention – Held, Personal liberty is a valuable constitutional right and cannot be curtailed due to minor technical errors in court orders. The Supreme Court directed the State to pay Rs 5 lakh as interim compensation to a prisoner detained for 28 days due to a clerical omission in a bail order, emphasizing that personal liberty cannot be denied on "useless technicalities" or "irrelevant errors." The prisoner, arrested under Section 366 IPC and Sections 3/5(i) of the UP Prohibition of Unlawful Conversion of Religion Act, 2021, was not released despite a clear bail order due to the omission of a sub-section (Section 5 instead of 5(i)). The Court criticized the prison authorities for "nitpicking" on minor errors and failing to implement the bail order, terming it a "serious dereliction of duty." The bench ordered a judicial inquiry by the Principal District Judge, to investigate the reasons for the delay, including any "sinister" motives or gross negligence, and to ascertain if similar issues affect other prisoners. The Court rejected the State's defense relying on a High Court judgment, clarifying that the omission was clerical and the bail order's substance was clear. The Director General (Prisons) assured sensitization of prison officials to prevent recurrence, which was recorded in the order. The Court warned that compensation could be increased to Rs 10 lakh if such attitudes toward personal liberty persisted and directed compliance reporting by 27 June 2025. The State was ordered to pay provisional compensation of Rs 5 lakh, with further action to be determined based on the judicial inquiry report. The Court stressed the importance of adhering to the substance of judicial orders and ensuring no prisoner languishes due to similar technicalities. (Paras 13 - 16)

[Arising out of impugned final judgment and order dated 29-04-2025 in Crl.A. No. 2295/2025 passed by the Supreme Court of India]

For Petitioner(s): Mr. Abhishek Singh, Adv. Mr. Sandeep Kumar, Adv. Mr. Y Yaduvanshi, Adv. Mr. Azad Baig, Adv. Mr. Pramod A.R. Nimesh, Adv. Mr. Wasim Khan, Adv. Mr. Parvez Alam, Adv. Ms. Manju Jetley, AOR

For Respondent(s): Ms. Garima Prasad, A.A.G., Dr. Vijendra Singh, AOR Mr. Aniket Tiwari, Adv.

ORDER

1. After our order passed yesterday, the Director General (Prisons), Mr. P.C. Meena, is present on video conferencing. Similarly Mr. Sita Ram Sharma, Superintendent of Jail, District Jail, Ghaziabad, Uttar Pradesh, is also present. We have also heard Ms. Garima Prasad, learned Additional Advocate General for the State of Uttar Pradesh. At the very outset, learned Additional Advocate General and Director General (Prisons) informed the Court that yesterday night, the applicant/petitioner herein has been released from jail.

2. Learned Additional Advocate General contends that the order dated 27.05.2025 of the Additional District and Sessions Judge, Ghaziabad, Uttar Pradesh, which was a release order mentioned all the details except that when it came to Section 5 the sub-section (1) was not mentioned and as such a correction application was moved by the Jailor on 28.05.2025. Since the said application was not disposed of, the applicant/petitioner was not released till yesterday.

3. We asked Ms. Garima Prasad, learned Additional Advocate General after drawing her attention to the release order as to whether the release order contained all the necessary particulars like:- the name of the detainee, the father's name, the crime number and the Police Station with respect to the case instituted against him as well as the details of the Sections of the IPC (Section 366) and the Sections concerned under the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (Sections 3 and 5). The learned Additional Advocate General categorically stated that all the necessary particulars do find mention and the only reason the release could not be effected was because the modification application filed before the District and Sessions Judge to modify the release order to add sub-section(1) of Section 5 was not disposed off.
4. Learned Additional Advocate General also drew attention of this court towards the judgment of the Division Bench dated 12.09.2012 in Criminal Appeal No. 4072 of 2005 of the High Court of Judicature at Allahabad about the need to mention the particulars in the release orders of prisoners.
5. We have carefully perused the order. Contrary to what the learned Additional Advocate General is contending, the order, in fact, states that if there was sufficient reference of the concerned case or the ST number in which the bail has been granted, even Courts cannot insist on incorporating many other details before release of prisoners are effected. It is mentioned in the said judgment that from the reference of case and ST number, other details can be ascertained by the Subordinate Courts from their own records which normally remain available with them. If this is so for the Courts, there is no reason why this should not be the position for the Executive.
6. In fact, in the judgment referred to the Division Bench of the Allahabad High Court has expressed its anguish over the disturbing facts coming to their notices through correction applications which are being filed in the High Court on the insistence of some Subordinate Courts to get full description of offences, crime number, Sections of the Penal Code incorporated in the bail orders and on that pretext refusing to accept bail bonds. It is after expressing anguish on that score, the Court recorded that what was required was a sufficient reference to the case and ST number.
7. We have been assured by Mr. Meena, Director General (Prisons), that he will sensitize his officers about the importance of respecting Court's orders and about the importance of the liberty for an individual which is guaranteed under Article 21 of the Constitution of India.
8. As long as the basic particulars are available and there is no dispute about identifying the individual, nitpicking of Court's orders and on that pretext not implementing them and keeping the individual behind bars is a serious dereliction of duty.
9. We record the statement of Mr. Meena, Director General (Prisons), that the necessary efforts to apprise the Officers that what is important is to see the substance of the order of the Court and the endeavor should not be to look for irrelevant and trivial errors to deny the individual his liberty.
10. We have also been informed that after our order yesterday, the Director General (Prisons) has instituted an inquiry for fixing responsibility of any officer/employee who may be guilty and the Director General (Prisons) is entrusted with the said task.
11. We feel that instead of the Director General/Deputy Inspector General of Police (Prisons) conducting the enquiry in this case it should be conducted by a Principal District and Sessions Judge, Ghaziabad, Uttar Pradesh. The enquiry will focus on the reason behind the delay in enlarging the applicant/petitioner from prison and as to why he was

detained beyond 27.05.2025. The reasons given by the State is the non-mentioning of sub-section (1) of Section 5. Is that the real reason or was there something sinister will also be enquired into. Independently, the Principal District and Sessions Judge will also enquire as to whether there was any gross negligence on the part of the Prison Authorities or other officials in this episode and if there are any Officers who are responsible.

12. The applicant/petitioner has been released on 24.06.2025. Ms. Garima Prasad, learned Additional Advocate General states that the correction in the release order was carried out by the First Additional Sessions Judge, Ghaziabad, Uttar Pradesh yesterday.

13. In the present case, we are of the opinion that on this trivial non-issue, the applicant/petitioner has lost his liberty for at least 28 full days. The only way we can mitigate the situation is through award of an *ad hoc* monetary compensation which will be provisional in nature. The State of Uttar Pradesh will pay a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the applicant and submit compliance report by Friday i.e., 27.06.2025.

14. After perusal of the Enquiry Report, in case, if there is any individual responsibility is fixed and after the determination of the final compensation, this Court will also decide if any portion of the compensation shall be recovered from such of those officer(s) on whom responsibility, if any is fixed.

15. The whole episode to say the least is unfortunate. Each one of the stakeholders in this process was aware as to what the offence was, what the crime number was, what the Sections under which the applicant/petitioner was charged with and what the the punishment Section was? In spite of this, the applicant/petitioner has been subjected to severe hardship and notwithstanding the order of this Court dated 29.04.2025 and the release order dated 27.05.2025 which to our mind is clear as day light, the applicant/petitioner has been released only on 24.06.2025.

16. Liberty is a very valuable and precious right guaranteed to the persons by the Constitution. It cannot be bartered away on the altar of technicalities. We only hope that no other convict/under trial is languishing in jail on account of similar technicalities. The Director General (Prisons) has assured us that a thorough enquiry on that aspect also will also be conducted by him during the course of the next few days.

17. We further direct that the State of Uttar Pradesh will render all assistance to the Principal District and Sessions Judge who has been appointed to enquire into the matter and furnish all logistical support that may be required.

18. Personal appearances are dispensed with.

19. For reporting compliance on the payment of Rs. 5,00,000/-, list the matter on 27.06.2025.