

ITEM NO.8

COURT NO.7

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 1086/2025 in CrI.A. No. 2295/2025

AFTAB

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

(FOR ADMISSION)

(IA No. 208915/2025 - EXEMPTION FROM FILING O.T. & IA No.141558/2025 - MODIFICATION OF COURT ORDER)

Date : 16-12-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Mr. Abhishek Singh, Adv.
Mr. Sandeep Kumar, Adv.
Mr. Azad Baig, Adv.
Mr. Akash Singh, Adv.
Mr. Yavi Yaduvanshi, Adv.
Ms. Manju Jetley, AOR

For Respondent(s) :

Ms. Aishwarya Bhati, A.S.G.
Dr. Vijendra Singh, AOR
Ms. Apurva Singh, Adv.
Mr. Yashasvi Virender, Adv.

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

1. Our Order dated 24-6-2025 speaks for itself. The same reads thus:-

"1. This case presents a very unfortunate scenario. The petitioner/applicant was released on bail by an order of this Court dated 29.04.2025. The order is categoric and states that the petitioner/applicant shall be released on bail during the pendency of the trial in connection with Case Crime/First Information Report No.02/2024 dated 03.01.2024 registered with Police Station - Wave City, District- Ghaziabad, Uttar Pradesh for the offence(s) punishable under Section 366 of the Indian Penal Code, 1860 and Sections 3 and 5 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (in short, the "2021 Act") on terms and conditions to be fixed by the trial court. Certain other incidental directions were also made. After this order, the Additional District and Sessions Judge, Court No.13, Ghaziabad issued a release order to the Jail

Superintendent, District Jail, Ghaziabad authorizing and requiring the Jail Superintendent, District Jail, Ghaziabad to release forthwith the accused person from custody after he has executed the personal bond attached here unless he was liable to be detained for some other matter. This order was made on 27.05.2025. After this order was made, it is stated by the petitioner/applicant that he has been unable to secure his liberty because in the orders of the High Court and this Court, clause (1) of Section 5 of 2021 Act was omitted and because of that the petitioner/applicant could not be released. So contending, the petitioner/applicant now seeks a modification of the order of 29.04.2025 to specifically include clause (1) of Section 5 of 2021 Act.

2. As stated earlier in the order of 29.04.2025, the concerned Sections are clearly mentioned. It is a travesty of justice that on the ground that a sub-section number was not mentioned, the petitioner/applicant is till date kept behind bars. This calls for a serious enquiry.

3. We direct the Jail Superintendent, District Jail, Ghaziabad to personally present in the Court tomorrow i.e., 25.06.2025 at 10.30 a.m. We also direct the Director General, Prisons, State of Uttar Pradesh to appear before this Court tomorrow i.e., 25.06.2025 through video-conferencing.

4. Post the matter tomorrow i.e., 25.06.2025 as the first matter."

2. Indeed as observed by this Court in the order, referred to above, the case on hand presents a very unfortunate scenario. In pursuance of the further Order passed by this Court dated 25-6-2025, the Director General (Prisons), State of Uttar Pradesh appeared before this Court on video-conferencing. The Order dated 25-6-2025 reads thus:-

"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."*

3. Thereafter on 27-6-2025, the matter was once again notified to report compliance on the payment of Rs.5,00,000/- to the petitioner by way of compensation.

4. In such circumstances, referred to above, we ordered an enquiry to be undertaken by the Principal District and Sessions, Ghaziabad, U.P.

5. Since the Principal District and Sessions Judge, Ghaziabad, U.P. had passed away, we directed that the Acting/Ad-hoc Principal District and Sessions Judge of the District Court may undertake an enquiry and submit a Report to this Court. The enquiry was undertaken and a Report dated 10-10-2025 came to be submitted by the Acting/Ad-Hoc Additional District and Sessions Judge, Ghaziabad, U.P.

6. After narrating the facts and the clause 92 of the U.P. Jail Manual, 2022, the enquiry Officer observed in Para 8, as under:-

"In view of the above discussions, the officer Sr. Junaid Muzaffar, Additional District and Sessions Judge, Court No.12, Ghaziabad is solely accountable for the delay occurring in release of the accused Aftab and he did not act with full care and attention having regard to the gravity and nature of the case. Thus, the officer has been responsible for the release of the accused after an inordinate delay."

7. In view of the specific observations as contained in Para 8, referred to above, we thought fit to call for the comments/remarks

from Mr. Junaid Muzaffar, the Additional District and Sessions Judge, Court No.12.

8. Mr. Junaid Muzaffar, the Additional District and Sessions Judge, Court No.2, Gaziabad, U.P. forwarded a detailed report explaining all the relevant aspects of the matter. He has specifically drawn our attention to Para 92A of the U.P. Jail Manual, 2022. His comments dealing with 92A reads thus:-

"However Para 92-A emphasis that all Orders of the Hon'ble Supreme Court's Fast and Secured Transmission of Electronic Record (FASTER) system. It stipulates that all orders from the Supreme Court and documents received via the FASTER system shall be deemed "e-authenticated" and must be complied with immediately by jail authorities to prevent release delays.

9. We are at pains to note that the Officer who conducted the enquiry has very conveniently ignored 92A in his Report.

10. In such circumstances, referred to above, more particularly after going through the entire report forwarded by Mr. Junaid, we are of the view that it was absolutely wrong to throw the entire blame on him. We make it clear that Mr. Junaid was in no manner responsible for the alleged lapses.

11. Our endeavour today is to ensure that in future nothing like this happens with any under-trial prisoner/accused.

12. It is very sad that despite being released on bail by the highest Court of this country, the under-trial accused had to remain behind the bars for almost one month from the date of the order of release on a very technical ground.

13. Had the Authority paid due attention to Section 92A of the Jail Manual, then probably this situation could have been avoided. For this, the under-trial accused has been adequately compensated. The Director General of Prisons, State of U.P. shall ensure that the authorities would remain vigilant in future.

14. With the aforesaid, the Interlocutory Applications and Miscellaneous Application stand disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)
COURT MASTER (NSH)