

2022 LiveLaw (SC) 433

IN THE SUPREME COURT OF INDIA

L. NAGESWARA RAO; J., B.R. GAVAI; J., S. RAVINDRA BHAT; J.

Miscellaneous Application No. 505/2022 in SMW(CrI) No. 1/2017; 28-04-2022

IN RE: TO ISSUE CERTAIN GUIDELINES REGARDING INADEQUACIES AND DEFICIENCIES IN CRIMINAL TRIALS

Practice and Procedure - Draft Rules of Criminal Practice 2021 - Bail - Para 17 (i) of the Draft Rules should be read as mandating the furnishing of the bail order to the prison concerned - The bail order should be furnished by the prison authorities to the accused.

(Arising out of impugned final judgment and order dated 20-04-2021 in SMW(CrI) No. 1/2017 passed by the Supreme Court of India)

For the parties : By Courts Motion, AOR Mr. Siddharth Luthra, Sr. Adv (A.C) Mr. R Basant, Sr. Adv (A.C) Mr. K. Parameshwar, AOR (A.C) Mr. A Karthik, Adv Mr. Mehaak Jaggi, Adv Mr. Vishnu, Adv Ms. A Sregurupriya, Adv Mr. Prasad Hegde, Adv Ms. Shubhangi Jain, Adv. Mr. Yash Giri, Adv. Mr. Bharat Monga, Adv. Mr. Pankaj Singhal, Adv. Mr. T. G. Narayanan Nair, AOR Mr. Guntur Prabhakar, AOR Mr. Abhimanyu Tewari, AOR Ms. Eliza Bar, Adv. Mr. Santosh Kumar - I, AOR Ms. Abha R. Sharma, AOR Mr. Subodh S. Patil, AOR Ms. Supriya Patil, Adv. Mr. P. S. Sudheer, AOR Ms. Hemantika Wahli, AOR Ms. Taruna Ardhendumauli Prasad, AOR Mr. M. Shueb Alam, AOR Mr. V. N. Raghupathy, AOR Mr. G. Prakash, AOR Mr. Gopal Jha, AOR Mr. Nishant Ramakantrao Katneshwarkar, AOR Mr. Sachin Patil, AOR Mr. Rahul Chitnis, Adv. Mr. Aaditya A. Pande, Adv. Mr. Geo Joseph, Adv. Ms. Shwetal Shepal, Adv. Mr. Pukhrabam Ramesh Kumar, AOR Mr. Karun Sharma, Adv. Ms. Anupama Ngangom, Adv. Mr. Krishna Shree Devee, Adv. Mr. Saurabh Choudhary, Adv. Mr. Avijit Mani Tripathi, AOR Mr. T.K. Nayak, Adv. Mr. Shaurya Sahay, Adv. Mr. Siddhesh Kotwal, Adv. Ms. Ana Upadhyay, Adv. Ms. Manya Hasija, Adv. Mr. Akash Singh, Adv. Mr. Preeti Singh, Adv. Mr. Nirnimesh Dube, AOR Mr. Amit Kumar Singh, Adv. Ms. K. Enatoli Sema, AOR Ms. Chubalemla Chang, Adv. Mr. Anmol Rattan Sidhu, A.G. Punjab Mr. R.K. Rathore, Adv. Ms. Jaspreet Gogia, AOR Mr. Manish Singhvi, Sr Adv Mr. Arpit Parkash, Adv Mr. Sandeep Kumar Jha, AOR Mr. Atul Jha, Adv. Ms. Shruti Jose, Adv. Mr. Sandeep Kumar Jha, AOR Mr. Raghvendra Kumar, Adv. Mr. Anand Kumar Dubey, Adv. Mr. Sunil Saraogi, Adv. Mr. Narendra Kumar, AOR Mr. V. Krishnamurthy, Sr. Adv./AAG Dr. Joseph Aristotle S., AoR. Ms. Nupur Sharma, Adv. Mr. Shobhit Dwivedi, Adv. Mr. Sanjeev Kumar Mahara, Adv. Ms. Jessica Bhardwaj, Adv. Mr. M. Yogesh Kanna, AOR Mr. Jatinder Kumar Sethi, Dy.A.G. Mr. Ashutosh Kumar Sharma, Adv. Mr. Jatinder Kumar Bhatia, AOR Ms. Garima Prasad, Sr. Adv./AAG Mr. Pradeep Misra, AOR Mr. Suraj Singh, Adv. Mr. Chanchal Kumar Ganguli, AOR Mr. Suhaan Mukerji, Adv. Mr. Aditya Prakash, Adv. Mr. Nikhil Parikshith, Adv. Mr. Vishal Prasad, Adv. Mr. Abhishek Manchanda, Adv. Mr. Sayandeep Pahari, Adv. Mr. Tanmay Sinha, Adv. PLR Chamberes & Co., AOR Ms. G. Indira, AOR Mr. Shubham Bhalla, AOR Mr. Vikramjeet Banerjee LD. ASG. Mr. K.M Natraj, LD. ASG. Mr. R. Balasubramaniam, Sr. Adv. Mr. Pranay Ranjan Adv. Mr. Anmol Chandan Adv. Mr. Sachin Sharma Adv. Ms. Neela khedar Gokhale Adv. Mr. Tathagat, Adv. Mr. Siddhartha Sinha, Adv. Ms. Janhvi Prakash, Adv. Mr. Raman Yadav, Adv. Mr. S. K. Singhanian, Adv. Mrinal Elkar Mazumdar, Adv. Mr. B. V. Balaram Das, AOR Mr. Gurmeet Singh Makker, AOR Mr. Amrish Kumar Sharma, AOR Mrs. Anil Katiyar, AOR Ms. Preetika Dwivedi, AOR Mr. Sandeep Sudhakar Deshmukh, AOR Mr. Kunal Chatterji, AOR Ms. Maitrayee Banerjee, Adv. Mr. Rohit Bansal, Adv. Mr. Gautam Narayan, AOR Ms. Asmita Singh, Adv. Ms. Pragya Barsaiyan, Adv. Mr. S.V. Raju, LD. ASG Mr. Malak Manish Bhatt, AOR Ms. Sneha Kalita, AOR Ms. Nanda Devi Adv. Ms. Jessy Kurian, Adv. Mr. Gaurav Pachanda, Sr Adv Ms. Avni Sharma, Adv Ms. Manisha Ambwani, AOR Mr. Ambhoj Kumar Sinha, AOR Mr. P.N. Ravindran, Sr. Adv. Mr. T. G. Narayanan Nair, AOR Ms. Anupama Kumar, Adv. Mr. Anandh Kannan N., AOR Mr. Mishra Saurabh, AOR Mr. Sanjai Kumar Pathak, AOR Mrs. Shashi Pathak, Adv. Mr. Pramod Kumar Yadav, Adv. Mr. Sharan Thakur, Adv. Mahesh Thakur, AOR Mr. Siddharth Thakur, Adv. Ms. Vipasha Singh, Adv. Mr. Ajay Kanojiya, Adv. Mr. Bishwendra Singh, Adv. Mr. Sibho Sankar Mishra, AOR M/S. Parekh & Co., AOR Mr. Ashok Mathur, AOR Mr. Abhinav Mukerji, AOR Mr. Akshay C. Shrivastava, Adv. Ms. Bihu Sharma, Adv. Ms. Pratishtha Vij, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. M/S. Arputham Aruna And Co, AOR Mr. Mukesh K. Giri, AOR Mr. Naresh K. Sharma, AOR Mr. Shuvodeep Roy, AOR Ms. Mukti Chaudhry, AOR Ms. Uttara Babbar, AOR Mr. Manan Bansal, Adv Mr. S.K. Rajora, Adv. Ms. Radhika Chaturvedi, Adv. Mr. Birjant Mishra, Adv. Ms. Madhumita Mishra, Adv. Vipin Gupta, AOR Mr. Hitesh Kumar Sharma, Adv. Mr. Akhileshwar Jha, Adv. Ms. Sangeeta Singh Saini, Adv. Mr. Amit Kumar, AOR Mr. Mahfooz A. Nazki, AOR Mr. Polanki Gowtham, Adv. Mr. Shaik Mohamad Haneef, Adv. Mr. T. Vijaya Bhaskar Reddy, Adv. Mr. K.V. Girish Chowdary, Adv. Ms. Rajeshwari Mukherjee, Adv. Ms. Archana Pathak Dave, Adv. Ms. Deepanwita Priyanka, AOR Mr. Nishe Rajen Shonker, AOR Ms. Anu K Joy, Adv Mr. Alim Anvar, Adv Mr. Shekhar Raj Sharma, DAG Haryana Mr. Paras Dutta, Adv. Mr. Sanjay Kumar Visen, AOR

ORDER

By an order dated 20.04.2021, this Court directed the High Courts and state governments to take the following steps:

“(a) All High Courts shall take expeditious steps to incorporate the said Draft Rules, 2021 as part of the rules governing criminal trials, and ensure that the existing rules, notifications, orders and practice directions are suitably modified, and promulgated (wherever necessary through the Official Gazette) within 6 months from today. If the state

government's co-operation is necessary in this regard, the approval of the concerned department or departments, and the formal notification of the said Draft Rules, shall be made within the said period of six months.

(b) The state governments, as well as the Union of India (in relation to investigating agencies in its control) shall carry out consequential amendments to their police and other manuals, within six months from today. This direction applies, specifically in respect of Draft Rules 1-3. The appropriate forms and guidelines shall be brought into force, and all agencies instructed accordingly, within six months from today.”

A note has been submitted by the learned Amicus Curiae showing the status of compliance of the directions issued on 20.04.2021. A few High Courts have not taken steps to incorporate the Draft Rules as part of the rules governing criminal trials. It is relevant to note that six months' time was granted to the High Courts to implement the directions given on 20.04.2021. Such of those High Courts which have not complied with the directions, are granted four weeks' time to comply with the order passed by this Court on 20.04.2021 and file a status report.

Most of the State Governments/Union Territories have not carried out the consequential amendments to the Police and other manuals. Some State Governments could not carry out the amendments on account of not having received the rules formulated by the High Courts, as directed by this Court. All the State Governments/Union Territories are directed to comply with the directions issued by this Court on 20.04.2021 within a period of 8 weeks from today and report compliance. The status reports by the High Courts and the compliance reports by the State Governments shall be served on Mr. K.Parameshwar a week before the date of next hearing.

The learned Amicus Curiae sought a clarification relating to para 17(i) of the Draft Rules of Criminal Practice, which is as under:

“17 BAIL:

i) The application for bail in non-bailable cases must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer shall furnish reasons thereof in the order itself. Copy of the order and the reply to the bail application or status report (by the police or prosecution) if any, shall be furnished to the accused and to the accused on the date of pronouncement of the order itself.”

We accept the submission made by the learned Amicus Curiae that para 17 (i) of the Draft Rules should be read as mandating the furnishing of the bail order to the prison concerned. We are also of the opinion that the bail order should be furnished by the prison authorities to the accused.

List this matter on 21.07.2022 at 2.00 p.m.