

The High Court Of Madhya Pradesh**WP-9320-2021***(IN REFERENCE (SUO MOTU) Vs THE STATE OF MADHYA PRADESH AND OTHERS)***WP/08391/2020****6****Jabalpur, Dated : 23-06-2021****Heard through Video Conferencing.**

Shri Sankalp Kochar, learned *Amicus Curiae* in W.P. No.9320/2021.

Shri Chander Uday Singh, learned Senior Advocate with Shri Bhavil Pandey, Ms. Nikita Sonavane and Ms. Aditi Pradhan, Advocates for the petitioner in W.P. No.8391/2020.

Shri Pushpendra Yadav, learned Additional Advocate General for the respondents/State with Shri Arvind Kumar, Director General of Prisons.

Shri Manoj Kumar Singh, Additional Secretary, M.P. State Legal Services Authority, Jabalpur.

Shri Ajay Gupta, Shri Aseem Dixit, Ms. Sangeeta Pachauri, learned counsel for the respondent-intervenor in W.P. No.9320/2021.

Shri Siddharth Gulatee, learned counsel for the respondent-Madhya Pradesh State Legal Services Authority, Jabalpur.

I.A. No.5870/2021 has been filed on behalf of Suyash Shrivastava inviting attention of the Court towards the order dated 11.06.2021 by which the Court of 23rd Additional Sessions Judge, Bhopal has rejected the application for temporary bail despite the observation of this Court and the recommendation of the High Power Committee.

In that view of the matter petitioner may consider filing fresh application in view of clarificatory order issued by this Court on 31.05.2021 or should avail his remedy against the said order before the High Court in appropriate proceedings.

With the aforesaid observation, the I.A. No.5870/2021 is disposed of.

Shri Sankalp Kochar, learned *Amicus Curiae* has filed I.A. No.11234/2021 giving various suggestions for reforms in the condition of jails of the State of Madhya Pradesh.

Learned Additional Advocate General may file his response thereto.

Shri Chander Uday Singh, learned Senior Advocate and Shri Sankalp Kochar, learned *Amicus Curiae* invited attention of this Court towards various resolutions passed by the High Power Committee in its meeting dated 04.06.2021 and contended that most of the resolutions have yet not been implemented. They, in particular, submitted that despite clarification by this Court in its order of 31.05.2021 and reiterated by the High Power Committee under agenda items 3 to 5 in the minutes of its meeting dated 04.06.2021 with reference to that direction given by this Court to the effect that "*merits of the case need not be looked into while passing the order either for grant of emergent parole or grant of temporary bail*", as per the data produced by the State, out of 9220 applications filed for grant of interim bail, in cases where the accused were facing trial for offences punishable upto maximum 7 years imprisonment, 2583 applications were allowed but surprisingly 2959 applications were rejected. The details of about 3678 cases were still awaited as on 05.06.2021, data upto which time is reflected in the status report filed by the State on 11.06.2021.

It appears from the aforementioned figures that most of the applications might have been rejected in view of the earlier resolution of the High Power Committee observing that the applications shall be considered by the concerned Court on the case to case basis, which gave rise to necessity of issuing clarification by this Court in its order dated 31.05.2021. What is gathered from the fresh status report filed by the State on 22.06.2021 is that for the period from 01.05.2021 to 09.06.2021, 7495 new under trial prisoners entered various jails of the State, but in-fact 21251 cases were under investigation for the offences punishable upto maximum imprisonment of 7 years for the corresponding period. It is contended in the status report that chargesheet was filed in the 7006 cases of under trial prisoners and arrest was made only in 9529 cases, out of which, 4705 accused were produced before the competent Court and thereafter 3862 have been sent to jail on account of

rejection of their application for grant of bail. The data produced by the State however does not disclose as to what happened to rest of the accused who were not produced before the Court because the total number of the accused arrested as per the action taken report is 9529 out of which only 4705 are stated to have been produced before the Court and of them 3862 are sent to jail.

Shri Pushpendra Yadav, learned Additional Advocate General shall produce the complete the break up with regard thereto and also the data with regard to subsequent period.

What is disturbing to note is that as per the data available online in District Bhopal alone for the period 03.05.2021 to 16.06.2021, 1225 arrests were made out of which nearly 1060 accused were those who were arrested for the offences punishable upto 7 years of imprisonment, which constitutes 86.53% of the total number of arrests made for that period as against 165 accused who were found involved in offences punishable with more than 7 years imprisonment. Similarly, in Jabalpur district for the same period i.e. 03.05.2021 to 16.06.2021, out of the total 2086 accused arrested, 1852 accused were those who were arrested for the offences punishable with upto 7 years of imprisonment which constitutes 88.78% of the total arrest made for the said period whereas 234 (11.22%) were those who were found involved in the offences punishable with more than 7 years of imprisonment. This clearly shows that directions of the Supreme Court in the case of ***Arnesh Kumar vs. State of Bihar & Another (2014) 8 SCC 273*** and subsequent order dated 07.05.2021 passed by the Supreme Court in ***Re: Contagion Of Covid-19 Virus in Prisons Suo Motu Writ Petition (Civil) No.1/2020*** are not being followed in the State.

In our considered opinion, the High Power Committee should again meet some time in the next week, as per the discretion of the Chairperson, to review the over all situation and to evaluate the compliance of the various resolutions passed in its last meeting held on 04.06.2021. The High Power

Committee may also find out as to in how many cases the applications of temporary bail were rejected prior to clarificatory order passed by this Court on 31.05.2021 and examine advisability of filing fresh applications in such cases.

The High Power Committee may, apart from D.G. (Prisons) and Director, Prosecution, also invite Director General of Police to impress upon him to ensure faithful compliance of the directions issued by the Supreme Court in the case of *Arnesh Kumar vs. State of Bihar & Another (2014) 8 SCC 273*.

The matter to come up again on **12.07.2021**.

(MOHAMMAD RAFIQ)
CHIEF JUSTICE

(VIJAY KUMAR SHUKLA)
JUDGE

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