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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

PIL-CJ-LD-VC- 2 OF 2020
WITH
I.A. CJ-LD-VC- 1 OF 2020

Peoples Union Civil Liberties & Anr. .. Petitioners
Vs.
State of Maharashtra & Ors. .. Respondents

Mr. Mihir Desai, Senior Advocate a/w Ms. Isha Khandelwal and
Ms. Kritika Agarwal for Petitioners.
Mr. Deepak Thakare, PP a/w Mr. S. R. Shinde, APP for State.
Mr. Nitin Waychal, Superintendent of Arthur Road Central
Prison, Mumbai, present.

WITH
I.A.-CJ-LD-VC- 1 OF 2020
IN
PIL NO. 15 OF 2018

Archana Rupwate .. Applicant
Vs.
State of Maharashtra & Ors. .. Respondents

Mr. Mihir Desai, Senior Advocate i/by Ms. Afreen Khan for
Petitioner/Applicant.
Mr. Deepak Thakare, PP a/w Mr. S. R. Shinde, APP for State.
Mr. Nitin Waychal, Superintendent of Arthur Road Central
Prison, Mumbai, present.

CORAM: DIPANKAR DATTA, CJ. &
K. K. TATED, J.

MAY 26, 2020

P.C.

1. Mr. Mihir Desai, learned Senior Counsel appearing for the petitioners in these two PIL Petitions submits that progress achieved by the State of Maharashtra in regard to containing the spread of Covid-19 infection amongst the inmates of the various Correctional Homes as well as to look after them is more or less satisfactory. However, he has brought to our notice certain areas of concern and has prayed that appropriate directions may be issued to the State to address such concerns.

2. We wish to record the contentions urged by Mr. Desai, the response of the State and our directions/observations, in seriatim, hereunder.

3. First, Mr. Desai has referred to the recommendations made by the High Powered Committee, chaired by the Senior Administrative Judge of this Court, to decongest the Correctional Homes of its inmates to prevent spread of infection. According to him, although the State has taken steps to bring down the number

of inmates by following the guidelines issued by the High Powered Committee, 14,000 + bail applications are pending before diverse criminal courts. Since the officers presiding over such courts, upon consideration of such applications for bail, are required to issue directions for release of under-trial prisoners on interim bail for a fixed number of days based on the guidelines so issued by the High Powered Committee, he voices a grievance that keeping such large number of applications pending tends to frustrate the purpose for which the High Powered Committee came to be constituted in terms of the Supreme Court's order. He, accordingly, prays for appropriate directions to the relevant courts for early disposal of such applications.

Even though the High Powered Committee has delineated categories of under-trial prisoners who would be entitled to release on interim bail, we are of the opinion that the relevant courts are not supposed to act as mere post-offices and allow applications without application of mind. We have no doubt in our mind that in the light of the guidelines issued by the High Powered Committee, the relevant courts, to the best of its ability and with the resources available at its disposal, have been striving to take appropriate steps to dispose of as many applications for bail as possible in accordance with law and in the light of the guidelines

of the High Powered Committee. No direction as such is required to be made, since we hope and trust that no application for bail shall be kept pending unnecessarily.

4. Secondly, Mr. Desai contends that 158 inmates of Arthur Road Correctional Home have tested positive for Covid-19 and since the spread of Covid-19 is by way of transmission from one to the other, there is an imminent need to have other inmates of the Correctional Home, who might have come into contact with the Covid-19 positive inmates, tested, so as to prevent further spread of the infection.

We record the inability of Mr. Thakare, learned Public Prosecutor for the State, to immediately respond to this contention for want of instructions. We hope and trust that by the next date fixed, Mr. Thakare shall obtain appropriate instructions on this contention.

In the meanwhile, however, appropriate steps may be taken by the State as are warranted on facts and in the circumstances.

5. Thirdly, it is contended by Mr. Desai that although family members/relatives of inmates of Correctional Homes other than

Arthur Road Correctional Home are being informed of a particular inmate having been infected by the virus, there is no system of informing the family members/relatives of Covid positive inmates of Arthur Road Correctional Home. He has prayed for a direction so that such family members/relatives are kept informed.

Mr. Thakare has submitted that the family members/relatives of the inmates of Arthur Road Correctional Home, who have tested positive, would be duly informed.

Having regard to such submission, we refrain from issuing any direction in this behalf but hope and trust that Mr. Thakare's submission shall be duly honoured.

6. Fourthly, Mr. Desai complains that personal meetings of inmates with their family members/relatives have been stopped and presently there is no system in place by which interaction between the inmates and their family members/relatives is possible. He has, accordingly, prayed that the Correctional Home authorities may be directed to ensure that each inmate can at least establish contact with his/her family members/relatives through two phone calls per week.

Responding to the above, Mr. Thakare has invited our attention to memo dated May 24, 2020 issued by the Additional Director General of Police & Inspector General of Prisons & Correctional Services, Maharashtra State, Pune. It is his submission that Video Conferencing facilities are being arranged so that the inmates can at least establish contact and talk to their family members/relatives.

In reply, Mr. Desai submits that notwithstanding the arrangements being made for Video Conferencing facilities, there is no certainty as to when the same would be commissioned. Till such time it is commissioned, he argues further that allowing two phone calls a week would enure to the benefit of the inmates in these trying times and that we may consider passing appropriate direction in the light thereof.

We trust that the contents of the memo dated May 24, 2020 shall be given full effect by the Correctional Home authorities. However, having regard to the uncertainties of connectivity, an additional facility of allowing the inmates to reach out to their family members/relatives by making phone calls could be allowed till such time Video Conferencing facilities are commissioned and even thereafter, if there is lack of connectivity. The number of

phone calls per week per inmate, the duration of the phone calls and the days on which the same may be allowed are left entirely to the discretion of the Correctional Home authorities.

7. Finally, a grievance has been raised by Mr. Desai that the system of transmitting money by money orders having been discontinued for the present, the family members/relatives of the inmates of the Correctional Homes are no longer in a position to provide money to them for purchase of essentials from the canteens of the Correctional Homes and, therefore, separate bank accounts for all the inmates ought to be opened where deposits can be made by such family members/relatives of the inmates.

Mr. Thakare has invited our attention to a circular dated April 8, 2020 which provides that the Jailor shall open a bank account and provide all particulars for facilitating deposits.

Having read such circular, we direct the Correctional Homes authorities to implement the instruction therein immediately. The bank account number as well as all other requisite particulars for transfer of money shall be displayed by the Correctional Homes authorities on their website for information of all concerned. Once deposits are made by the family members/relatives of any inmate

in such bank account, the same shall be utilized in a manner that benefits him, according to law.

8. Hearing of these PIL Petitions stands adjourned for two weeks (June 9, 2020) to enable Mr. Thakare to obtain complete instructions on the second point argued by Mr. Desai.

9. This order will be digitally signed by the Sr. Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

K. K. TATED, J.

CHIEF JUSTICE