

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

SUO MOTO PETITION NO. 1 OF 2021

High Court on its own motion

... **Petitioner**

versus

The State of Maharashtra & Ors.

... **Respondents**

Mr. A.A. Kumbhakoni, Advocate General with Mr. Deepak Thakare, PP for the respondent-State.

Mr. Mihir Desai, Senior Advocate a/w. Mr. Vijay Hiremath, Ms. Devyani Kulkarni and Mr. Mihir Joshi for the intervenors-People's Union for Civil Liberties.

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- APRIL 22, 2021

PC :

1. In terms of our order dated April 20, 2021, People's Union for Civil Liberties has forwarded its suggestions. Mr. Kumbhakoni, learned Advocate General appearing for the State prays for some time to look into the suggestions and to revert with the State's response thereto.

2. By the said order dated April 20, 2021, we had called upon the State to provide the crime rate after the Government Resolution dated April 13, 2021 titled "Break the Chain" was issued. What has been placed before us by Mr. Kumbhakoni is a chart showing the crime rate in the years 2019 and 2020. The said chart does not really answer what was asked for. Realizing the same, Mr. Kumbhakoni prays for time to return with complete particulars as required by the Court on the next date of hearing.

3. Insofar as the direction prayed from the Court in paragraph 24 of

the affidavit-in-reply of the State is concerned, Mr. Kumbhakoni has very fairly placed before us the decision of the Supreme Court reported in **(2012) 13 SCC 192 (State of Maharashtra & Ors. vs. Saeed Sohail Sheikh & Ors.)** and has submitted that if any under-trial prisoner is required to be shifted to a correctional home from the one where he is lodged, the law laid down in the said decision would be followed in letter and spirit and the State is abandoning the prayer as made in the said paragraph of the reply affidavit. The submission is accepted.

4. Having regard to the critical situation prevailing now and in order to ensure that under-trial prisoners lodged in various correctional homes of the State may be required to be shifted to less-crowded correctional homes to achieve equal distribution, and thereby decongest the over-crowded correctional homes, the State may proceed to decide on shifting some of such prisoners based on cogent reasons and we have no doubt in our mind that if an application is made before the relevant Magistrate in this behalf with relevant particulars, such application shall be considered on its own merits as early as possible and preferably within 48 hours of receipt of such application, in accordance with law.

5. Other suggestions which have been forwarded by Mr. Desai, learned senior advocate for People's Union for Civil Liberties to Mr. Kumbhakoni may also be considered by the returnable date and the State's response thereto be made available.

6. Stand over to **April 27, 2021.**

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)