

BDP-SPS

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

I.A. NO.CJ-LD-VC-2-2020

(for direction)

with

I.A. NO.CJ-LD-VC-1-2020

(for interim relief)

IN

PIL-CJ-VC-LD-VC-2-2020

Peoples Union Civil Liberties & Anr.Applicants

In the matter of

Peoples Union Civil Liberties & Anr.Petitioners

V/s

State of Maharashtra and OrsRespondents

Mr. Mihir Desai, Sr. Advocate a/w Ms. Isha Khandelwal a/w Ms. Kritika Khandelwal, Advocates for the Applicants/Petitioners

Mr. Deepak Thakare, P.P. a/w Mr. S.R. Shinde, APP for the State.

ALONGWITH

I.A. NO.1 OF 2020

IN

PIL NO.15 OF 2018

Archana RupwateApplicant

V/s

State of MaharashtraRespondent

Mr. Mihir Desai, Sr. Counsel i/b Ms. Afreen Khan, Advocate for the Applicant/Petitioner.

Mr. Deepak Thakare, P.P. a/w Mr. S.R. Shinde, APP for the State.

**CORAM: DIPANKAR DATTA, CJ. &
S. S. SHINDE, J.**

DATE: JUNE 12, 2020

P.C.:

1] Pursuant to the order dated May 26, 2020, the Additional Director General of Police and Inspector General of Prisons and Correctional Services, Maharashtra State (hereafter “the ADG, Prisons”) has filed a report dated June 8, 2020.

2] We have perused the report.

3] Mr. Desai, learned Senior Counsel appearing on behalf of the Petitioners, upon perusal of such report as well as on consideration of other relevant aspects, has raised three points of concern and made necessary prayers, as follows:-

(i) In Solapur and Aurangabad Correctional Homes, 60 and 20 inmates respectively have tested positive; however testing of asymptomatic inmates has not been undertaken in terms of the guidelines of the Indian Council of Medical Research (hereafter “the ICMR”) dated May 18, 2020. He prays for a direction on the prison authorities for testing of asymptomatic inmates,

at the earliest.

(ii) Although the inmates of the correctional homes have been permitted interactions with their family members by making phone calls of three minutes duration twice a month, there exists a circular dated February 12, 2019 issued by the prison authorities which has provisions for wider interaction between the inmates and their family members. He submits that the prison authorities may be directed to extend to the inmates the wider benefits flowing from the said circular dated February 12, 2019.

AND

(iii) As on Tuesday last, 11,527 applications for temporary bail are pending before the Magistrates/Sessions Courts, which tend to frustrate the spirit of the order of the Hon'ble Supreme Court dated March 16, 2020 as well as the recommendations of the High Powered Committee constituted in terms thereof; hence, prayer is made for direction to the Magistrates/Sessions Courts to expedite their decisions on such applications.

4] Insofar as the first point of concern raised by Mr. Desai is concerned, we find from a report dated June 8, 2020 of the ADG, Prisons that he is aware of the guidelines issued by the ICMR for COVID-19 testing dated May 18, 2020. It is also

evident from a memo dated June 8, 2020 of the Director of Health Services, Pune addressed to the ADG, Prisons that he has been informed of the requirements of testing of inmates of correctional homes in terms of such guidelines of the ICMR. Considering the further submission of Mr. Desai that even inmates of correctional homes have breathed their last after testing positive for COVID-19, we call upon the ADG, Prisons to furnish information on the following points:-

- (i) the protocol being followed in correctional homes for testing of inmates who are asymptomatic and in direct and high risk contact of inmates who have tested positive for COVID-19; and
- (ii) on the authenticity of the submissions of Mr. Desai that inmates have passed away upon testing positive for COVID-19.

5] Regarding the second point of concern, we direct the ADG, Prisons to consider the desirability of extending the benefits of the circular dated February 12, 2019 to the inmates of the correctional homes, in the light of the fact that number of inmates may have been released on temporary bail in pursuance of the extant judicial/administrative orders and guidelines on the subject and that load of inmates in the correctional homes may not be that burdensome as in

normal times. However, if the benefits are denied, the reason shall be indicated in the report to be filed in terms of this order.

6] Also, upon appreciation of the third point of concern, we consider it expedient to call for reports from each of the Principal District & Sessions Judges. The exact number of pending applications for temporary bail filed by the inmates of correctional homes from all over Maharashtra to avail the benefit of the recommendations of the High Powered Committee as on close of working hours today together with the dates of presentation of such applications, shall be indicated in separate reports to be filed by each Principal District & Sessions Judge by close of working hours of Monday next (15th June, 2020). A compilation of the facts and figures shall be made by the Registrar (Legal and Research) and placed before the Bench for consideration on Tuesday next (16th June, 2020), when both these Petitions shall be listed once again.

7] 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.

S. S. SHINDE, J.

CHIEF JUSTICE