

HIGH COURT OF MADHYA PRADESH : JABALPUR

Endt. No. 8/6063 /
III-2-3/67

Jabalpur, dt. 20/11/2018

The copy of the order passed by Hon'ble the Supreme Court of India, New dated 26-10-2018 in Writ Petition(Civil) NO(s) . 749/2018 in the case of in Re; Speedy Trial of under trial prisoners to the following authorities:-

- (i) The District & Sessions Judge, with a request to bring the same into the knowledge of all the Judicial Officers/ Principal Magistrate Juvenile Justice Board under their kind control for information and necessary action.
- (ii) The District & Sessions Judge (Inspection & Vigilance), Jabalpur / Indore / Gwalior;
- (iii) he Director MPSJA , Jabalpur
- (iv) The Director, State Forensic Science Laboratory, MPSH 15A, Gopal Ganj, Sagar, Madhya Pradesh 470003
- (v) The Secretary, Juvenile Justice Board, Jabalpur
- (vi) The Principal Registrar, Bench at Indore/Gwalior High Court of M.P., Jabalpur.
- (vii) P.S. to Hon'ble the Chief Justice ,High Court of Madhya Pradesh Jabalpur for placing the matter before His Lordships,
- (vii) P.S. to Registrar General/ Principal Registrar(Judl)/ Principal Registrar (Inspection & Vigilance),/ Principal Registrar (Examination) / Principal Registrar (ILR) High court of Madhya Pradesh Jabalpur,
- (viii) P.A. to Director/Additional Director/JOTRI, High Court of Madhya Pradesh Jabalpur,
- (ix) Registrar(J.)/(D.E.)/(A)/ (Vig.)/ (VI.)/ Secretary, SCMS, High Court of Madhya Pradesh, Jabalpur.
- (x) The Assistant Checker(Shri Kushwahaji) for placing the order in the next meeting of UTPs.
- (xi) The Registrar(IT) for information and necessary action with regard to provide/making available Video Conferencing facilities.


(B.P. SHAMRA)
REGISTRAR(DE)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Writ Petition(s)(Civil) No(s). 749/2018

IN RE: SPEEDY TRIAL OF UNDERTRIAL PRISONERS

Date : 22-10-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Amicus Mr. Gaurav Agrawal, Adv.

For Petitioner(s) By Courts Motion

For Respondent(s) Mr. Aman Lekhi, ASG
Mr. R. Bala, Adv.
Ms. Suhasini Sen, Adv.
Ms. Aarti Sharma, Adv.

Certified to be true copy
26/10/18
Asst. Registrar (Judicial)
Supreme Court of India

For States of Assam Mr. Shuvodeep Roy, Adv.
Mr. Somnath Banerjee, Adv.

Andhra Pradesh Mr. Guntur Prabhakar, Adv.
Ms. Prerna Singh, Adv.

Bihar Mr. M. Shoeb Alam, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Gujarat Ms. Hemantika Wahi, AOR
Ms. Jesal Wahi, Adv.
Ms. Puja Singh, Adv.
Ms. Vishakha, Adv.

Haryana Mr. Sanjay Kr.Visen, Adv.
Mr. Shekhar Raj Sharma, Adv.

H.P. Mr. Abhinav Mukherji, Adv.
Mr. Divya Prakash Pandey, Adv.
Mr. Ambar Sachdeva, Adv.
Mr. Rahul Mishra, Adv.

Jharkhand Mr. Tapesb Kumar Singh, Adv.
Mr. Aditya Pratap Singh, Adv.

J&K Mr. M. Shoeb Alam, Adv.
Mr. Ujjwal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

Kerala Mr. Nishe Rajen Shanker, Adv,
Mr. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.
Mr. Regan S. Bel, Adv.

Mr. G. Prakash, Adv.
Mr. Jishnu M.L., Adv.
Mrs. Priyanka Prakash, Adv.
Mrs. Beena Prakash, Adv.

Karnataka Mr. V.N. Raghupathy, Adv.
Mr. Lagnesh Mishra, Adv.

Manipur Mr. Leishangthem Roshmani, Adv.
Ms. Maibam Babina, Adv.
Ms. Anupama Ngangom, Adv.

Meghalaya Mr. Ranjan Mukherjee, Adv.

Nagaland Ms. K. Enatoli Sema, AOR
Mr. Amit Kumar Singh, Adv.

Sikkim Ms. Aruna Mathur, Adv.
Mr. Avneesh Arputham, Adv.
Ms. Anuradha Arputham, Adv.
Ms. Geetanjali, Adv.
for M/s Arputham Aruna & Co.

Telangana Mr. S. Udaya Kumar Sagar, AOR
Mr. Mrityunjai Singh, Adv.

Tripura Mr. Shuvodeep Roy, Adv.
Mr. Rituraj Biswas, Adv.

Uttar Pradesh Mr. Garvesh Kabra, Adv.
Mr. Rajesh K. Singh, Adv.
Mr. Amit Singh, Adv.

Uttarakhand Ms. Vanshuja Shukla, Adv.

Ms. Rachana Srivastva, Adv.
Ms. Monika, Adv.

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Mr. K.V. Jagdishvaran, Adv.
Mrs. G. Indira, AOR
Mr. Mrinal K. Mondal, Adv.

Puducherry

Mr. V.G. Pragasam, Adv.
Mr. S. Prabu Ramasubramanian, Adv.
Mr. S. Manuraj, Adv.

UPON hearing the counsel the Court made the following

O R D E R

We have heard the learned *Amicus* as well as the learned Additional Solicitor General.

With regard to Item No.(i), this reads as follows:-

(1) There is an Observation Home where juveniles in conflict with law, pending enquiry, are housed which covers five districts. The proceedings in respect of juveniles are held in different courts in the said five districts. The juveniles are required to be transported to appear in the said proceedings which require escort police. On non-availability thereof, proceedings are adjourned. This results in delay in conclusion of enquiry proceedings much beyond statutory time-line under Section 14(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015. There is also no video conferencing facility by which the juveniles facing enquiry can participate obviating the need for travelling long distances. Either a Special Court is required to be set up to deal with all enquiries in respect of juveniles kept in the said home at a nearest place or video conferencing facility is required to be provided forthwith."

The learned ASG should ascertain and inform us on the next date of hearing whether Observation Homes and Juvenile Justice Boards are equipped with video conferencing facilities. A state-wise chart should be prepared in this regard so that necessary directions can be given in cases where there is a considerable distance between the Observation Home and Juvenile Justice Board. The States are directed to co-operate and assist the Union of India in providing this information.

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With regard to Item No.(iv) & (v), this reads as follows:-

(iv) In spite of directions of this Court, we found instances of witnesses not being examined by the Court on the ground of non-availability of time. Adjournments requiring witnesses to repeatedly come to the Court is against the policy of law. There is, thus, need for strict monitoring to ensure that no witness is returned unexamined.

(v) We also found cases of adjournments being leisurely granted in respect of long custody in petty cases and financially poor accused continuing in detention on account of non-furnishing of bail bonds. This aspect may also need to be monitored.

We direct all the Trial Courts to consider the possibility of pruning the list of witnesses in consultation with the Public Prosecutor as well as the Defence counsel so that the number of witnesses required to be examined can be reduced at the threshold.

Similarly, the Trial Courts should consider the application of Section 309 of the CrPC and ensure whenever the witness is summoned and he or she appears, the witness is examined and is not made to go back home without being examined or cross-examined.

We expect all the Trial Courts to adhere to these directions some of which have already been issued from time to time on earlier occasions by this Court.

We also make it clear in cases of petty offences, the application of the principle "bail and not jail" should be particularly applied by the Trial Courts. There is no difficulty in applying this principle or in identifying petty cases. Similarly, where the accused is a poor person, the Trial Court should look into the question of grant of bail in a sympathetic and a compassionate manner and may even consider either releasing the accused on a personal bond or on a bond of a limited amount which

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is easily affordable by the accused.

We also direct the Trial Courts to consider the application of Section 436A of the CrPC in this regard.

There are Under Trial Review Committees set up in every district. Each of these Committees must look into the issues of under trial prisoner and wherever feasible, they should be released so that overcrowding in prisons is reduced, if not eliminated.

With regard to Item No. (x), this reads as follows:

(x) Number of trials are prolonged awaiting FSL reports which situation needs to be remedied forthwith.

The learned ASG should ascertain the number of Forensic Science Laboratories including Central Forensic Laboratories on a state-wise basis and also proposals, if any, for increasing the number of Forensic Science Laboratories. It is a matter of common knowledge that a large number of trials are held up because of delays in Forensic Science Laboratories. If the forensic examination can be expedited, it will expedite the trials of the Trial Court.

With regard to Item Nos. (xi), (xii) and (xiii), we propose to take it up on the next date of hearing.

List the matter on 22.11.2018.

Meenakshi Kohli
24/11/18
(MEENAKSHI KOHLI)
COURT MASTER

Kailash Chander
24/11/18
(KAILASH CHANDER)
ASSISTANT REGISTRAR

24/11/18

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