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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3037/2020 & CM APPL.23830/2020**

**COURT ON ITS OWN MOTION** .... **Petitioner**

Through: Court on its own motion

Versus

**STATE & ORS.**

....**Respondents**

Through: Mr. Amit Prasad, SPP with Mr. Rajesh Deo, DCP, Legal Cell in CM APPL.23830/2020. Mr. Rahul Mehra, Standing Counsel (Criminal) for GNCTD.

IN RE:

Extension of Interim Orders

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**

**HON'BLE MR. JUSTICE TALWANT SINGH**

**ORDER**

% **20.10.2020**

1. Proceedings of the matter have been conducted through Video Conferencing.

2. This Court vide order dated 25<sup>th</sup> March, 2020 took *suo moto* notice of outbreak of Covid-19 and the restricted functioning of this Courts vide notification number No.51/RG/DHC/dated 13.03.2020 as well as Government notification dated 24<sup>th</sup> March, 2020 declaring nationwide lockdown for a period of 21 days w.e.f. 25<sup>th</sup> March, 2020 and passed a detailed order of which operative portion is as under:

“Taking suo moto cognizance of the aforesaid extraordinary circumstances, under Article 226 & 227 of the Constitution of India, it is hereby ordered that in all matters pending before this court and courts subordinate to this court, wherein such interim orders issued were subsisting as on 16.03.2020 and expired or will expire thereafter, the same shall stand automatically extended till 15.05.2020 or until further orders, except where any orders to the contrary have been passed by the Hon'ble Supreme Court of India in any particular matter, during the intervening period.

Needless to clarify that in case, the aforesaid extension of interim order causes any hardship of an extreme nature to a party to such proceeding, they would be at liberty to seek appropriate relief, as may be advised”.

3. Since the lockdown was extended from time to time by the Government with few relaxations and the restrictive functioning of the Courts continued, so the order dated 25<sup>th</sup> March 2020 was extended from time to time on 15<sup>th</sup> May, 2020, 15<sup>th</sup> June, 2020, 13<sup>th</sup> July, 2020, 31<sup>st</sup> August, 2020 and lastly vide order dated 24<sup>th</sup> August, 2020, the interim orders were extended till 31<sup>st</sup> October, 2020.

4. In the meantime, an application under Section 151 of the Code of Civil Procedure seeking modification of above orders was moved by the Deputy Commissioner of Police, Legal Cell, PHQ, Delhi enclosing therein an order passed by Shri Vinod Yadav, ASJ-03 (NE), KKD COURTS/DELHI dated 07.09.2020, wherein a request was made by the applicant to modify these orders and pass necessary directions as deemed fit in view of the difficulties faced. The concerned Ld. Judge had also sent a copy of the order to this Court praying for issuance of appropriate guidelines to follow

in the cases of interim bails in the riots cases as to whether the interim bails granted on humanitarian ground would also be extended from time to time in terms of the orders passed by this Court. This application was taken up on 28<sup>th</sup> September, 2020 and the learned Standing counsel for State was directed to supply the following information to this Court:

- “(a) How many persons in jail are presently infected/suffering from Covid-19?
- (b) How many persons involved in heinous crimes are granted the interim bail?
- (c) How many persons involved in minor crimes are granted interim bail?
- (d) How many persons are granted interim bail by the Delhi High Court?”

5. In response thereto, a Status Report dated 15<sup>th</sup> October, 2020 has been filed and the relevant paragraph, being para no.2 of the Status Report is reproduced hereunder:

“2. In this regard, Respondent submits that

- (a) There are 06 prisoners who are presently infected/suffering from Covid-19.
- (b) There are 2318 prisoners who are involved in heinous crimes and granted interim bail by Hon'ble Courts.
- (c) There are 2907 prisoners involved in minor crimes and granted interim bail.
- (d) There are 356 prisoners who have been granted interim bail by the Delhi High Court”.

6. The matter has been taken up today. We have perused the report received from jail and we have heard Mr. Rahul Mehra, learned Standing Counsel for Govt. of NCT of Delhi as well as Mr. Amit Prasad, SPP representing the applicant seeking modification. The Director General of Prisons was also present during the proceedings. Mr. Rahul Mehra, Standing Counsel, under instructions from DG Prisons, has submitted that although in the report dated 15<sup>th</sup> October, 2020, it was shown that 6 prisoners were infected with Covid-19 but out of them 3 have already recovered and now only 3 prisoners are infected from Covid -19 and they have been admitted in LNJP Hospital with a view to segregate them from other prisoners. As far as the capacity of the jails is concerned, it was informed by Mr. Rahul Mehra, after consulting DG (Prisons) that the overall capacity of all the prisoners is about 10,000 and as on date and they have 15,900 prisoners inside the jails. The information submitted by the jail authority reveals that 2,318 undertrials involved in heinous crimes were granted interim bail by the District Courts, which have been extended from time to time on the strength of orders dated 25.03.2020 and subsequent orders passed by this court. 2,907 undertrials involved in minor crimes were granted bail as per the recommendations of the High-Power Committee and 356 prisoners were granted interim bail by Delhi High Courts. Mr. Amit Parsad has highlighted the fact that the undertrials in Riots Cases, who were granted interim bails on humanitarian grounds for short periods are covered under the ambit of the orders passed by this court and their interim bails are extended from time to time. About 20 such accused are on interim bail at this time. On the other hand, Mr. Rahul Mehra has submitted that Covid-19

pandemic is still prevailing and the earlier orders passed by this court need not be modified.

7. After considering all aspects and in view of the fact that the interim bail and interim stay extension order was necessitated because functioning of the Courts was curtailed due to complete lockdown declared on 25.03.2020 but now the situation has changed and all Courts at High Court and District Court level are functioning through physical mode/VC mode and since there is no spread of Covid-19 in the jails and out of about 16,000 prisoners only 3 are infected and they have been segregated and are admitted in hospital, we deem it proper to modify our order dated 25<sup>th</sup> March, 2020 which was lastly extended on 24<sup>th</sup> August, 2020 as under:

(i) As far as the first category of 2318 undertrials involved in heinous crimes, who were granted interim bail by the District Courts, there shall be no further extension of interim bails under the orders of this Court. However, to facilitate their surrender before jail authorities and to avoid any inconvenience being caused to the jail authorities during surrender of a large number of under trials, it is ordered that the surrender shall take place in the following phased manner:

(a) The prisoners of Central District, Tis Hazari Courts, shall surrender on 2<sup>nd</sup> November, 2020.

(b) The prisoners of West District, Tis Hazari Courts, shall surrender on 3<sup>rd</sup> November, 2020.

- (c) The prisoners of Patiala House Courts, New Delhi District shall surrender on 4<sup>th</sup> November, 2020.
  - (d) The prisoners of East District, Karkardooma Courts, shall surrender on 5<sup>th</sup> November, 2020.
  - (e) The prisoners of North East District, Karkardooma Courts shall surrender on 6<sup>th</sup> November, 2020.
  - (f) The prisoners of Shahdara District, Karkardooma Courts shall surrender on 7<sup>th</sup> November, 2020.
  - (g) The prisoners of North District, Rohini Court shall surrender on 8<sup>th</sup> November, 2020.
  - (h) The prisoners of North West District, Rohini Courts shall surrender on 9<sup>th</sup> November, 2020.
  - (i) The prisoners of South West District, Dwarka Courts shall surrender on 10<sup>th</sup> November, 2020.
  - (j) The prisoners of South District, Saket Courts, shall surrender on 11<sup>th</sup> November, 2020.
  - (k) The prisoners of South East District, Saket Courts, shall surrender on 12<sup>th</sup> November, 2020.
  - (l) The prisoners of Rouse Avenue Courts Complex, New Delhi shall surrender on 13<sup>th</sup> November, 2020.
- (ii) The above 2,318 prisoners are at liberty to move the respective courts for extension of their interim bails and the concerned courts shall consider the said applications for extension of interim bails on its own merits and take a decision accordingly

without being influenced by any order passed by this Court in the past.

- (iii) As far as 2,907 prisoners, who have been granted bail on the recommendation of High Power Committee are concerned, a request is made to the High Power Committee to take a decision in respect of the said prisoners within ten days from today.
- (iv) As far as 356 prisoners granted interim bail by this Court are concerned, they shall surrender before the concerned jail superintendent(s) on 13<sup>th</sup> November, 2020. However, as stated above, all the above 356 prisoners are at liberty to move applications for extension of their interim bails before the concerned benches of this Court, if so advised, and their applications will be considered on merit without being influenced by any order passed by this Full Bench.
- (v) As far as interim orders passed in the civil matters are concerned, which were extended vide orders dated 25<sup>th</sup> March, 2020 and subsequent orders, it is hereby ordered that all such interim orders shall cease to have effect on the next date of hearing in the said matters. However, the parties in the said matters are at liberty to move the concerned courts for extension of the interim orders and the said courts shall consider extension of the interim orders on merit without being influenced by any orders passed by this Court in this matter.

**8.** The jail authorities shall make appropriate arrangements to ensure surrender of the prisoners as detailed above and take all required steps in view of the guidelines issued by the Government Authorities from time to time to contain the spread of Covid-19.

**9.** This order shall also apply to any other undertrial, who is granted interim bail in the meantime.

**10.** In view of the above, no further orders are required to be passed in the instant writ petition and the same is disposed of accordingly.

**11.** This order be uploaded on the website of this Court and be circulated to all the Hon'ble Judges of High Court of Delhi and be also conveyed to all the Standing Counsel, UOI, GNCTD, DDA, Civic Authorities, Delhi High Court Bar Association, all the other Bar Associations of Delhi, as well as to all the District Courts subordinate to this Court.

**CHIEF JUSTICE**

**SIDDHARTH MRIDUL, J**

**TALWANT SINGH, J**

**OCTOBER 20,2020**

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