



**U.P. State Legal Services Authority**  
(Constituted under the Legal Services Authorities Act, 1987)

To

The Registrar General  
Hon'ble High Court of Judicature at  
Allahabad.

No. 1039 /SLSA-15/2020 (PS/Sharan) Dated: April 30, 2020  
Sub: Regarding Compliance of the directions of the Meeting of the High Powered Committee (HPC) Dated 26-04-2021 .

Sir,

It is humbly submitted that a High Powered Committee (referred herein as HPC) was constituted in compliance of the directions issued by Hon'ble Supreme Court in the Writ Petition (c) No.01/2020 IN RE : CONTAGION OF COVID-19 IN PRISONS, comprising;

- 1- Hon'ble Mr. Justice Sanjay Yadav, The Executive Chairman, UP State Legal Services Authority/Patron-in Chief/the Acting Chief Justice of the Hon'ble Allahabad High Court;
- 2- Sri Awanish Kumar Awasthi, I.A.S., Additional Chief Secretary Home & Jails, Govt. of U.P. and
- 3- Sri Anand Kumar, I.P.S., D.G. (Prison), Uttar Pradesh.

The said HPC in it's meeting dated 26.04.2021, resolved to issued the following directions among others for strict Compliance:-

- 1- In the matter of Physical Presence of UTP/Inmates in Courts:-

In this respect, it has been directed that;

"2:1: Hence, it is hereby directed that Physical presence of UTP /Inmates before the Courts must be stopped forthwith till 30 May 2021 or further order whichever is earlier.

The Courts are advised to have recourse to Video Conferencing facilities as a substitution thereof except in rare cases where the particular Court in it's judicial discretion finds the physical presence of the prisoner /inmate indispensable in interest of Justice & exigencies of particular case".

- 2- In the matter of Parole and interim bails to Convicts or UTP/Inmates:-

"8: The Committee resolves that except in the Cases excluded under clause 10 herein under ,the following category of convicted prisoners be forthwith considered for released on Parole for 60 days on furnishing Personal Bond with the undertaking written on the personal Bond itself that he/she shall surrender before the Prison Authority after expiry of the Parole period. :-



## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

- Convicts already on Parole would get extended special Parole of another 60 days provided no adversity occurred during the present Parole.
- Convicts who have already availed 01 Parole peacefully and surrendered on time will be granted afresh one-time special parole for 60 days provided no adversity occurred during the previous Parole.
- Convicts who are not facing a sentence of more than 7 years shall be released on special Parole for 60 days provided no serious adversity exists in their Jail record during their stay in confinement / during the period of Parole.
- All those convicts who have been on Parole during this year 2020-2021 or within last five years & has eligibility for general Parole otherwise, they be considered leniently for 60 days Pandemic Parole to achieve objective of decongestion in Jails/ remand homes.
- Convicts whose matter of Parole are pending /under consideration with the State Authorities shall forthwith be considered within 60 days for Pandemic Parole expeditiously and decided within 7 days henceforth.

It is further directed that the Superintendent of Police and District Magistrate shall act pragmatically and with responsibility to assess the suitability for Pandemic parole.

- The DG prison shall collect the data of all those convicts who have completed their period of imprisonment yet still languishing in Jails in default of payment of fine occasioned by their inability to pay the fine imposed in the sentence & shall put up the said information/statement in the next ensuring meeting of the Committee, so that feasibility of payment from the SLSA fund or otherwise may be considered and explored by this HPC.

9: The following categories of prisoners/inmates shall also be entitled to Parole for a period of 60 days due to this Pandemic on conditions of Parole as specified unless their release in the recorded opinion of the State Government is detrimental to Public Peace, Safety & Security, and the interest of the administration of Justice;

- 1- All male/female inmates above 65 years of age.
- 2- All female inmates above 50 years or above whose sibling/siblings are of the age of 6 years or above.
- 3- Pregnant Women Convicts.
- 4- All male or female inmates suffering from Cancer or like serious/Critical illness, however, on medical certification.
- 5- All male or female inmates suffering from serious life threatening Heart ailments (requiring bypass/valve replacement only on proper medical certification).



## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

- The Secretary, Home, Government Of U.P shall file compliance report as well as the statement of Cases with specified reasons to this HPC for re-evaluation/ re-consideration wherein the State Government has in it's recorded opinion has held that the release of prisoners/inmates is detrimental to Public Peace, Safety, and Security, and interest of the administration of Justice.

10: The following categories/nature of offences/Cases are excluded from consideration for Pandemic Parole and interim Bail (except clause (a) for interim bail) ;

- (a) Persons convicted or undertrial for offences under 302 (Murder), 303, (Murder by life Convict) 364 (Kidnapping for ransom), 364 A, (Kidnapping or abduction in order to Murder) 304B (except women and persons above 65 years of age) or abetment thereof .
- (b) Persons convicted or undertrial for offences against State, Army, Navy and Air Force & Offences relating to coins Government Stamps under Chapter- VI ,VII & XII of the IPC or abetment thereof.
- (c) Persons convicted or Undertrial for offences of dacoity or extortion or attempt or abetment thereof.
- (d) Persons convicted or Undertrial for offences of Rape or attempt to Rape.
- (e) Persons convicted or Undertrial for offences under Gangster Act or Prevention of Money Laundering Act 2002 (PMLA) or U.P. Control of Organised Crimes Act 2017(UPCOCA) or other Terror or Organised Crime related offences.
- (f) Persons convicted or Undertrial for offences under POCSO (Protection of Children from Sexual Offences Act )
- (g) Persons convicted or UT who are foreign nationals & persons convicted/UT under Foreigners Acts 1946 .
- (h) Persons convicted or UT of Currency -Notes and Bank-Notes (Sections 489A to 489E of IPC).
- (i) Offences punishable under 326 A and 326B relating to throwing and causing grievous hurt by use of Acid etc.
- (j) Persons Convicted or Under trial whose release on parole or interim bail will be gravely detriment to the interest of society or the victim)
- (k) Persons Undertrial whose bail applications have been either rejected by the Hon'ble Supreme Court or High Court or pending thereat.

11- The Committee further resolves that following category of undertrial Prisoners /inmates ( UTP) except the cases excluded under clause 10 (b) to (k) mentioned herein before may be released on Interim Bail.

- Undertrial prisoners facing criminal cases in which maximum sentence is 07 years and presently confined in Jails may be released on Interim Bail on examination of cases on case to case basis for 60 days by the designated Sessions Judge or Magistrate or Court as the case may be, on furnishing Personal Bond with the undertaking written on the personal Bond itself that he/she shall surrender before the Court after expiry of the Interim Bail period. Other conditions may be imposed by the Court if it thinks



## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

fit, considering the circumstances of the case. No interim bail on this pandemic ground be rejected unless it is essential for protection of the interest of society/victim at large.

- The matter of grant of interim bail shall be considered and requisite order passed as per discretion by visiting the Jails, on alternate days, by the designated Sessions Judge or Magistrate or Court as the case may be, on the bail applications at the Jails itself and it shall be disposed off forthwith. For drafting bail applications, to be moved by undertrial prisoners, assistance and services of prisoner officers, Jails staff, Jail Para Legal Volunteers (PLVs) and Panel Lawyers empanelled with the District Legal Services Authority (DLSA) may be utilized. The Secretary, DLSA of concerned district shall ensure effective legal aid. For this purpose passes shall be issued to the Judges/Magistrates & Panel Lawyers etc by the District Judge/ or his authorized officials shall be honoured during lock down period by the District /Police Administration.
- The District & Sessions Judge himself or through delegation under his order shall grant interim bail for a period not exceeding 45 days as per undermentioned SOP 2018 (Standard Operating Procedure) devised by NALSA. (National Legal Services Authority)

NALSA SOP 2018 for UTP's :

- (a) UTP's (Under Trial Prisoner referred herein as UTP)/Convicts falling under /covered under section 436A Cr.PC.
- (b) UTP's released on bail by the Court but have not been able to furnish sureties.
- (c) UTP's accused of compoundable offences.
- (d) UTP's eligible under Section 436 of Cr.PC.
- (e) UTP's who may be covered under Section 3 of Probation of Offenders Act, namely accused of offence under Section 379, 380, 381, 404, 420 IPC or alleged to be an Offence not more than 2 years imprisonment.
- (f) UTP's become eligible to be released on bail u/s.167(2),(a) (i)&(ii) of the code read with Section 36 A of the Narcotic Drugs and psychotropic Substances Act 1985. (Where persons accused of Section 19 or Section 24 or Section 27 A or for Offences involving commercial quantity) and where investigation is not completed in 60/90/180 days;
- (g) UTP's who are imprisoned for offences which carry a maximum punishment of 2 years;
- (h) UTP's who are detained under Chapter VII, Cr.PC ie. U/s.107,108,109 and 151 of Cr.PC;
- (i) UTP's who are sick or infirm and require specialized medical treatment;
- (j) UTP's women offenders;
- (k) UTP's who are first time offenders between the age of 19 & 21 years and in custody for offences punishable with less than 7 years of imprisonment and have suffered at least 1/4 of the maximum sentence possible;



## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

- (l) UTP's who are of unsound mind and must be dealt with under Chapter XXV of the Code;
- (m) UTP's eligible of release under Section 437(6) of Cr.PC where in a bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case;
- (n) UTP's Convicts who have undergone their sentence as imposed are entitled to release because of remission granted to them.

➤ Jail Superintendent shall be in continuous touch with concerned Secretary, District Legal Services Authority regarding disposal of interim bail application moved by the undertrials, so that proper arrangement for drafting and presentation of applications may be made.

3- In the matter of Compliance of Certain Judgements of Hon'ble Supreme Court in regard to prison inmates:

In this regard, it has been directed;

“12: The Under Trial Review Committee contemplated by the Hon'ble Supreme Court in *Re Inhuman Conditions in 1382 prisons*, (2016) 3 SCC 700, shall meet every week and take such decisions in consultation with the concerned district authority as per the said judgment. The relevant extract from the said judgement is being quoted as under for ready reference and compliance of the same in letter and spirit;

“16. With regard to the third issue regarding effective implementation of Section 436A of the Code of Criminal Procedure, (for short the Cr.P.C.), the affidavit stated that an advisory had been issued by the Ministry of Home Affairs of the Government of India on 17th January, 2013 to all the States and Union Territories to implement the provisions of Section 436A of the Cr.P.C. to reduce overcrowding in prisons. Among the measures suggested in this regard by the Ministry of Home Affairs was the Constitution of a Review Committee in every district with the District Judge in the Chair with the District Magistrate and the Superintendent of Police as Members to meet every three months and review the cases of undertrial prisoners. The Jail Superintendents were also required to conduct a survey of all cases where undertrial prisoners have completed more than one fourth of the maximum sentence and send a report in this regard to the District Legal Services Committee constituted under The Legal Services Authorities Act, 1987 as well as to the Review Committee. It was also suggested that the prison authorities should educate undertrials of their right to bail and the District Legal Services Committee should provide legal aid through empanelled lawyers to the undertrial prisoners for their release on bail or for the reduction of the bail amount. The Home Department of the States was also requested to develop a management information system to ascertain the jail-wise progress in this regard.”

13. A three Judge Bench of the Hon'ble Supreme Court in ;  
*Bhim Singh Vs Union of India*  
(1)(2015)13 SCC 605



## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

has directed the jurisdictional Magistrate /Sessions Judges to hold one sitting in a week in each jail/prison for two months to identify the under-trial prisoners who had completed half period of the maximum term or maximum term of imprisonment stipulated for the offence and pass an appropriate order to release them on bail.

This HPC, directs hereby that the said directive be complied with and report be submitted by SMC.

14. In the aforesaid Writ Petition No.1/2020,*supra*.it was also directed as under;

“The High Powered Committee shall take into account the directions contained in para no.11 of Arnesh Kumar Vs State Of Bihar (2014)8 SCC .273.”

The HPC is of the view that arbitrary exercise of power of arrest and lack of Judicial supervision/Control results not only in deprivation of Constitutionally Celebrated fundamental right to life but at the time of Pandemic, it has also serious repercussion on the management of Pandemic and more particularly in respect to the jail/ remand homes inmates.

The relevant extracts of the said Judgement of Arnesh Kumar Vs State of Bihar (2014)8 SCC .273. has been annexed herewith as Annexure-1 for ready reference and compliance.

The DGP, Uttar Pradesh shall ensure the said compliance as per existing law so far as Police is concerned & the Learned Registrar General of the Hon'ble Allahabad High Court shall re-circulate the same for compliance by the Judicial Officers .

4- In the matter of fixing deadline for ensuring implementations and scheduling of meetings:

The scheduling of the meetings of SMC and HPC is relevant in respect to the compliance of the directions issued herein .In this respect , it has been directed as follows;

“The Monitoring Team shall monitor effective implementation of Hon'ble Supreme Court directives and submit its report to the High Powered Committee by 15-05-2021.

The first meeting of State Level Monitoring Team shall be organized by the Secretary SMC before 17.05.2021 at appropriate place as decided by it's Secretary & thereafter on weekly basis. The working of the SMC shall be supervised by ACS, Home & Member Secretary, UPSLSA.

Let all the concerned authorities/officers be informed accordingly. The next meeting of High Powered Committee shall meet on or before 22-05-2021 as scheduled.”

These directions are directed/intended to be complied immediately by all the concerned.

**Ashok Kumar**  
H.J.S.  
Member Secretary



## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

In regard to above quoted directions, I have been directed to request you to kindly issue necessary directions to all the District & Sessions Judges/Magistrates of subordinate judiciary & others for ensuring the strict compliance of the aforesaid directions issued by the High Powered Committee in letter and spirit.

With regards,

Yours sincerely

Encl. Annexure-1

Sd/  
(Ashok Kumar)  
Member Secretary

Copy forwarded to the following for information and necessary compliance.

1. All Chairmen/Secretaries District Legal Services Authorities, UP
2. The D.G.P. Uttar Pradesh, Lucknow, for ensuring compliance on the part of the police authorities as directed more particularly, the directions contained in the above quoted Para 8, 12 & 14 of High Power Committee(H.P.C).
3. Secretary of the State Monitoring Committee for effective implementation of the aforesaid directions issued by HPC

Sd/  
(Ashok Kumar)  
Member Secretary



## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

### Annexure-1:

Relevant Extract of the Judgement of Hon'ble Supreme Court Of India in Arnesh Kumar Vs State Of Bihar (2014)8 SCC .273:

“X x x x x x

7:1: From a plain reading of the aforesaid provision, it is evident that a person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on its satisfaction that such person had committed the offence punishable as aforesaid. Police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the Court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts.

7:2: Law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. Law further requires the police officers to record the reasons in writing for not making the arrest.

7:3: In pith and core, the police office before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of [Section 41](#) of Cr.PC.

XXXXXXXXXXXX

10: We are of the opinion that if the provisions of [Section 41](#), Cr.PC which authorizes the police officer to arrest an accused without an order from a Magistrate and without a warrant are scrupulously enforced, the wrong committed by the police officers intentionally or unwittingly would be reversed and the number of cases which come to the Court for grant of anticipatory bail will substantially reduce. We would like to emphasize that the practice of mechanically reproducing in the case diary all or most of the reasons contained in [Section 41](#) Cr.PC for effecting arrest be discouraged and discontinued.





## **U.P. State Legal Services Authority**

(Constituted under the Legal Services Authorities Act, 1987)

11: Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction :

11:1; All the State Governments to instruct its police officers not to automatically arrest when a case under [Section 498-A](#) of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from [Section 41, Cr.PC](#);

11:2: All police officers be provided with a check list containing specified sub-clauses under [Section 41\(1\)\(b\)\(ii\)](#);

11:3: The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11:4: The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;

11:5: The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

11:6: Notice of appearance in terms of [Section 41A](#) of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

11:7: Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

11:8: Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12: We hasten to add that the directions aforesaid shall not only apply to the cases under [Section 498-A](#) of the I.P.C. or [Section 4](#) of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

13. We direct that a copy of this Judgement be forwarded to the Chief Secretaries as also to the Director Generals of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring its Compliance.