

Most Urgent/Out at once  
**OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE (HQ): DELHI**

No. 8620-8720 /Genl./HCS/2023

Dated, Delhi the 11 MAR 2023

**Sub : Circulation of Order dated 31.01.2023 of Hon'ble Supreme Court of India in SMWP (Criminal) 04/2021 titled as In Re Policy Strategy For Grant of Bail.**

A copy of the letter dated 27.02.2023 received from Hon'ble High Court of Delhi, New Delhi and a copy of Order dated 31.01.2023 passed by Hon'ble Supreme Court of India in SMWP (Criminal) 04/2021 titled as "In Re Policy Strategy For Grant of Bail" the subject matter is circulated for information :-

1. All the Ld. Judicial Officers posted in Central District, Tis Hazari Courts, Delhi.
2. The Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi for information.
3. The Ld. Secretary, DLSA, Central District, THC, Delhi for information.
4. PS to the Ld. Principal District & Sessions Judge (HQs), Tis Hazari Courts, Delhi for information.
5. The Chairman, Website Committee, Tis Hazari Courts, Delhi with the request to direct the concerned official to upload the same on the Website of Delhi District Courts.
6. The Director (Academics), Delhi Judicial Academy, Dwarka, New Delhi for information as requested vide letter no.DJA/Dir.(Acad)/2019/4306 dated 06.08.2019.
7. Dealing Assistant, R&I Branch for uploading the same on LAYERS.
8. For uploading the same on Centralized Website through LAYERS.

  
(RAKESH PANDIT)

Officer-in Charge, Genl. Branch, (C)  
Addl. District & Sessions Judge,  
Tis Hazari Courts, Delhi.

**Encl.: As above.**



Email

ROBIN SHARMA

## Request for Circulation of Order dated 31.01.2023 of Hon'ble Supreme Court of India

**From :** CPC, Delhi High Court <cpc-del@ajf.gov.in>  
**Subject :** Request for Circulation of Order dated 31.01.2023 of Hon'ble Supreme Court of India

Mon, Feb 27, 2023 01:52 PM

1 attachment

**To :** ROBIN SHARMA <pdj-central@ddc.nic.in>, Pooja Malhotra <pdj-east@ddc.nic.in>, Mr JITENDER <pdj-newdelhi@ddc.nic.in>, KULVEER KUMAR <pdj-north@ddc.nic.in>, Sunil Ahuja <pdj-northeast@ddc.nic.in>, Puneet Luthra <pdj-northwest@ddc.nic.in>, ANIL KUMAR <pdj-racc@ddc.nic.in>, Ashok Chandra Dhyanani <pdj-shahdara@ddc.nic.in>, RAM SINGH <pdj-south@ddc.nic.in>, LAKPA TSHERING <pdj-southeast@ddc.nic.in>, Secretariat to Pr Distt and SJ <pdj-southwest@ddc.nic.in>, VIKAS BHARDWAJ <pdj-west@ddc.nic.in>, Member Secretary, Delhi SLSA <dslsa-phc@nic.in>, Director General (Prisons), Delhi Prisons, Tihar, New Delhi <dgtihar@nic.in>, Delhi Judicial Academy <dja@nic.in>



**Cc :** Shri Ravinder Dudeja <rg.dhc@nic.in>

Respected Sir

Vide Order dated 31.01.2023, Hon'ble Supreme Court of India, in SMWP (Criminal) 04/2021 titled as **In Re Policy Strategy For Grant of Bail**, has issued following directions: -

*"The Court which grants bail to an undertrial prisoner/convict would be required to send a soft copy of the bail order by e-mail to the prisoner through the Jail Superintendent on the same day or the next day. The Jail Superintendent would be required to enter the date of grant of bail in the e-prisons software [or any other software which is being used by the Prison Department]."*

In this regard, I have been directed by worthy Registrar General of this Court to circulate the Order dated 31.01.2023 passed by the Hon'ble Supreme Court amongst all the officers of Delhi Higher Judicial Service, Delhi Judicial Service, Delhi State Legal Services Authority, Delhi Prisons and Delhi Judicial Academy for their information.

Accordingly, you are humbly requested to circulate the said order dated 31.01.2023 amongst all the officers of Delhi Higher Judicial Service, Delhi Judicial Service, Delhi State Legal Services Authority, Delhi Prisons and Delhi Judicial Academy for their information.

Genl. Sr.

P. D. S. J. (Genl. Sr.)  
27/02/23




2/27/23, 2:10 PM

Email

**With Regards,**

**Abhilash Malhotra,  
Joint Registrar (Judicial)/Central Project Coordinator (CPC)  
High Court of Delhi.**

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 **Order dated 31.01.2023 of Hon'ble Supreme Court.pdf**  
55 KB

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ITEM NO.23

COURT NO.2

SECTION PIL-W

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

SMWP(CRIMINAL) NO.. 4/2021

IN RE POLICY STRATEGY FOR GRANT OF BAIL

Petitioner(s)

VERSUS

Respondent(s)

(MR. GAURAV AGRAWAL, ADV. IS AMICUS CURIAE  
IA No. 203407/2022 - INTERVENTION APPLICATION)  
IA No. 203408/2022- DIRECTIONS  
IA No. 21741/20330 EXEMPTION FROM FILING O.T

WITH

SLP(CrI) No. 529/2021 (II-C)  
(FOR ADMISSION AND I.R AND MR. NEERAJ KUMAR JAIN, SR. ADVOCATE (A.C.), MR. GAURAV AGRAWAL, ADVOCATE FOR NATIONAL LEGAL SERVICES AUTHORITY, MR. DEVANSH A. MOHTA, ADVOCATE (A.C.), MR. ABHIMANYU TEWARI, ADVOCATE FOR STATE OF ARUNACHAL PRADESH, MR. YOGESH KANNA, ADVOCATE FOR STATE OF TAMIL NADU, MR. CHANCHAL K. GANGULI, Advocate for STATE OF WEST BENGAL, MRS. NIRANJANA SINGH Advocate for State of Bihar, MR. MILIND KUMAR, ADVOCATE FOR STATE OF RAJASTHAN, MR. NIKHIL GOEL, ADVOCATE FOR HIGH COURT OF GUJRAT, MR. SARVESH SINGH BAGHEL, ADVOCATE FOR STATE OF UTTAR PRADESH, MAHFOOZ A NAZKI FOR STATE OF ANDHRA PRADESH, MR. SACHIN PATIL FOR STATE OF MAHARASHTRA, MR. SUBHRANSHU PADHI FOR STATE OF KARNATAKA, MR. GARVESH KABRA FOR STATE OF UP, MR. G.S MAKKER FOR ANDAMAN AND NICOBAR ISLANDS, MR. HARSHAD V HAMEED FOR STATE OF KERALA, MR. SHOVAN MISHRA, ADVOCATE FOR STATE OF ODISHA, DR. MONIKA GUSAIN, ADVOCATE FOR STATE OF HARYANA AND MR. ABHINAV MUKERJI, ADVOCATE FOR STATE OF HIMACHAL PRADESH, Mr. Aaditya Aniruddha Pande, Advocate for State of Maharashtra, Mr. Pukhramban Ramesh Kumar, Advocate for State of Manipur, Ms. Swati Ghildiyal, Advocate for State of Gujarat, Mr. Shuvodeep Roy, Advocate for State of Assam, Mr. Pashupatinath Razdan, Advocate for State of MP. [FOR FURTHER DIRECTIONS])

Date : 31-01-2023 These matters were called on for hearing today.



HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE ABHAY S. OKA

By Courts Motion, AOR

Mr. Gaurav Agrawal, Adv. (AC)

Mr. Neeraj Kumar Jain, Sr. Adv. (AC)  
Mr. Sanjay Singh, Adv.

Mr. Devansh A Mohta, Adv. (AC) (NP)

For Petitioner(s)

Ms. Liz Mathew, AOR (AC)

For Respondent(s)

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 Mr. Keshari, Adv.  
 Ms. Sweta, Adv.

Ms. Meenakshi Arora, Sr. Adv.  
 Mr. Yash S Vijay, Adv.  
 Mr. Chandratannay Chubey, Adv.

UPON hearing the counsel the Court made the following  
 O R D E R

It is pointed out that there is bereavement in the family of Mr. Devansh A. Mohta, learned Amicus Curiae and the matter may be deferred for consideration.

Mr. Gaurav Agrawal, learned Amicus Curiae

however, submits that some aspects with which Mr. Mohta is not concerned at present can be dealt with.

SMWP(CRIMINAL) NO. 4/2021 :

EXECUTION OF BAIL ORDERS

Mr. Gaurav Agrawal, learned Amicus Curiae has drawn our attention to order dated 29.11.2022 qua the issue of undertrial prisoners who continue to be in custody despite having been granted the benefit of bail on account of their inability to fulfill the conditions. In this behalf the report by the NALSA has been placed before us filed on 30.01.2023. After recording the discussions which have been held, it has been stated in para 5 of the report that there are 5,000 undertrial prisoners who were in jail, despite grant of bail, out of which, 2,357 persons were provided legal assistance and now 1,417 persons have since been released.

One of the main reasons flagged why the accused are in jail despite the grant of bail is that he may be an accused in multiple cases and is apparently not willing to furnish bail bonds until he is given bail in all the cases as undertrial custody will be counted in all the cases.

*De hors* this, it is pointed out that to ensure that the remaining undertrial prisoners who

are unable to furnish surety or bail bonds due to poverty, NALSA is in the process of creating a master data of all such undertrial prisoners in excel sheet with all relevant details, including, reasons for non-release and steps qua persons who are unable to furnish bail bonds or surety are being taken up with the respective SLSAs/DLSAs and result would be obtainable in about one or two months' time.

Learned Amicus Curiae has also drawn our attention to the discussions with Shri Shashikant Sharma, HOD and Sr. Technical Director of NIC recording that five meetings were held along with the participation of Shri K.M. Nataraj, learned ASG and Home Ministry officials. A Standard Operating Procedure (SOP) has been prepared by NIC which also deals with this aspect. A relevant aspect is that the NIC e-prison software, which is working in about 1,300 jails in the country, would now have a field where the date of grant of bail would have to be entered by the jail authorities. If the accused is not released within seven days of the date of grant of bail, the e-prison software would automatically generate a flag/reminder and simultaneously the e-mail would be sent to the office of the concerned DLSA so that the DLSA can find out the reason for non-release of the accused. The SOP has para 2.4 under the heading "Bailed out but not Released"

(11)

which facility enables prison user to access the data of inmates, to assist in identifying inmates who are bailed out but not released due to some reasons like sureties or pending cases.

Insofar as the discussion with TISS is concerned, some suggestions are stated to be made but learned Amicus Curiae submits that a more detailed work out of that is necessary.

Another issue which has crept up during discussion is whether the Government would give access to this portal on a protected basis to the Secretaries of the SLSAs and DLSAs which would facilitate better follow up.

We call upon the Government of India to discuss this issue with NALSA so that necessary directions, if any, can be passed. Learned ASG would obtain instructions in that behalf by the next date.

With a view to ameliorate the problems a number of directions are sought. We have examined the directions which we reproduce hereinafter with certain modifications:

\*1) The Court which grants bail to an undertrial prisoner/convict would be required to send a soft copy of the bail order by e-mail to the prisoner through the Jail Superintendent on the same day or the next day. The Jail Superintendent would be required to enter the date of grant of bail in the e-prisons software [or any other software which is being used by the Prison

Department].

2) If the accused is not released within a period of 7 days from the date of grant of bail, it would be the duty of the Superintendent of Jail to inform the Secretary, DLSA who may depute para legal volunteer or jail visiting advocate to interact with the prisoner and assist the prisoner in all ways possible for his release.

3) NIC would make attempts to create necessary fields in the e-prison software so that the date of grant of bail and date of release are entered by the Prison Department and in case the prisoner is not released within 7 days, then an automatic email can be sent to the Secretary, DLSA.

4) The Secretary, DLSA with a view to find out the economic condition of the accused, may take help of the Probation Officers or the Para Legal Volunteers to prepare a report on the socio-economic conditions of the inmate which may be placed before the concerned Court with a request to relax the condition (s) of bail/surety.

5) In cases where the undertrial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.

6) If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation.

7) One of the reasons which delays the release of the accused/ convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the condition of local surety."

We order that the aforesaid directions shall be

complied with.

IA No. 203407/2022-INTERVENTION, IA NO. 203408/2022-DIRECTIONS AND 21741/2023- EXEMPTION FROM FILING O.T

Application for exemption from filing O.T. is allowed.

IA No. 203407/2022 and IA NO. 203408/2022 have been filed for intervention and appropriate directions by the National Law University, Delhi through Fair Trial Fellowship Programme under Project 39A.

We are of the view that instead of looking to the suggestions and directions sought, more appropriate course of action would be for Shri Gaurav Agrawal, learned Amicus to look into them on behalf of the NALSA and accordingly make suggestions to us taking them as inputs.

List the applications along with SMWP(Criminal) No. 4/2021 and SLP(Crl) No. 529/2021 on 28.03.2023.

[CHARANJEET KAUR]  
ASTT. REGISTRAR-cum-PS

[POONAM VAID]  
COURT MASTER (NSH)