

Minutes of Meeting dated 04th May, 2021 at 6:00 p.m. through Video Conferencing (Cisco Webex) under the Chairpersonship of Hon'ble Mr. Justice Vipin Sanghi, Judge, High Court of Delhi & Executive Chairperson, Delhi State Legal Services Authority

The Meeting was attended by following Officers/Members of High Powered Committee through Video Conferencing:

1. Shri B.S. Bhalla, Principal Secretary (Home), Govt. of NCT of Delhi
.....Member
2. Shri Sandeep Goel, Director General(Prisons), Delhi
.....Member
3. Shri Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLISA).

Agenda: Effective implementation of the directions issued by Hon'ble Supreme Court of India in Suo Motu Petition (Civil) No.1/2020 - In Re: Contagion of COVID-19 vide its orders dated 23.03.2020 and 13.04.2020

Pursuant to spread of **Corona Virus (COVID-19)** across the globe and it being declared as **pandemic** by WHO, Hon'ble Supreme Court of India took the issue of **over-crowding** of prisons, as a matter of **serious concern**, by way of above referred Suo-Motu Writ Petition.

Hon'ble Supreme Court of India in order to prevent the outbreak of **COVID-19 (Novel Corona virus)** and to achieve the target of "**social distancing**" directed various measures to be taken by the concerned Governments/ Departments with the ultimate object of reducing the population of **over-crowded jails**. Apart from these directions, State Governments were directed to constitute a **High Powered Committee** consisting of:-

- (a) Executive Chairperson of State Legal Services Authority;
- (b) Principal Secretary Home / Prisons;
- (c) Director General of Prisons ;

Govt. of NCT of Delhi vide letter No.F.9/63/2020/HG/1409 dated 26.03.2020 constituted the present "**High Powered Committee**".

This Committee was constituted for determining the **class/category** of prisoners who can be released on *interim bail/parole*, depending not only upon the severity of the offence, but also upon the nature of the offence and/or upon any other relevant factor, and for such period, as it may deem appropriate.

This Committee had met through video conferencing on **28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020, 20.06.2020, 31.07.2020, 30.08.2020, 24.10.2020, 28.11.2020, 14.01.2021** and **17.02.2021** to discuss and deliberate upon the agendas emanating from the directions passed by the Hon'ble Supreme Court of India.

Pursuant to the discussions and deliberations made in these meetings and based upon the recommendations made by it, a **total** number of **5124** inmates, (**UTPs and Convicts**) were released, thereby reducing stress on the prisons and resulting in **decongestion** of jails, so as to ensure the observance of **social distancing** inside the prisons.

The statistical data of the inmates who were released from the prisons consequent upon the recommendations made by this Committee during last year is tabulated hereunder:-

UTPs released on interim bail till 09.02.2021	3499
UTPs released pursuant to modification of bail orders by Hon'ble High Court in W.P.(Criminal) No.779/2020	310
Convicts released on Emergency Parole	1184
Convicts released on remission of sentence till 10.02.2021	131
TOTAL UTPs/ CONVICTS RELEASED ON INTERIM BAIL/PAROLE/ REMISSION OF SENTENCE TILL 10.02.2021 as part of decongestion effort under the aegis of Hon'ble HPC	5124

Having discharged its obligations for an year, this Committee in its meeting dated **17.02.2021**, had taken into stock the situation of **COVID-19**, inside the jails, as well as in Delhi NCR, and also after taking into consideration the **Delhi State Health Bulletin on COVID-19** of the preceding **03 weeks**, it had assessed

the then prevailing situation and **observed** that the situation of **COVID-19** in Delhi NCR has **improved considerably** in comparison to the situation that existed last year (2020).

Accordingly, this Committee in its meeting dated **17.02.2021**, based on the **improved situation** of **COVID-19** in Delhi NCR; and taking cognizance of order No.40-3/2020-DM-I(A) dated **30.09.2020** passed by Govt. of India regarding **Unlock-5** effective from **15.10.2020**, and also considering the Office Order No.35/RG/DHC/2021 dated **14.01.2021** of Hon'ble High Court whereby all the Courts including High Court of Delhi and Courts subordinate thereto have **resumed functioning** through physical mode/Video Conferencing mode, **resolved** not to **recommend** further extension of *interim bail* to the UTPs. As such all the **3499 UTPs** enlarged on *interim bail*, who had not been admitted to regular bail, either by the court concerned, or the Superior Courts, were **asked to surrender** back to the Jail, including **1184 convicts** released on *Emergency Parole*.

At present, entire India in general and NCT of Delhi in particular is **engulfed** in the ambit of **second wave of COVID-19**, which according to the medical and expert opinion is more **virulent** and **fatal** in comparison to the last year's strain. In a matter of few weeks, this second wave has left everyone "*gasping for air*". It has led everyone with struggle to breathe or with **asphyxia**, which is the most terrifying human experience. Breathing fresh air which one takes for granted and used to do more than a dozen times every minute, in the present circumstances has turned into an **ordeal**. *Right to Life under Article 21 is the most precious Fundamental Right of every citizen of India. It unconditionally embraces even an undertrial/convict walled off from the society.*

Considering that the situation as observed by this Committee in its last meeting has now taken a **360 degree turn** and is becoming **alarming** with each day, accordingly, there is an **imminent** and **urgent** need to take affirmative and effective steps to prevent the outbreak of **COVID-19** inside jails and for ensuring **social distancing** inside prisons by identifying and determining the **class/categories** of prisoners who can once again be released on *interim bails/paroles*.

Kanwal Jeet Arora, Member Secretary, DSLSA has also brought it to the notice of the Committee that today itself two Public Interest Litigations titled, "*R.K. Gossain Vs. Govt. of NCT of Delhi & Ors.*" bearing "WP (C) 4936/2021" and another Petition titled, "*Kanhaiya Singhal & Anr. Vs. Govt. of NCT of Delhi*" bearing "WP (C) 5153/2021" were listed before the bench headed by Hon'ble the Chief Justice Delhi High Court seeking directions to the High Powered Committee for laying down the criteria to release the UTPs on interim bail.

Kanwal Jeet Arora, Member Secretary, DSLSA apprised the Chair that he during the course of hearing informed Hon'ble Court about the **present meeting of HPC** scheduled at **6:00 p.m.** today.

In view of these circumstances the present **emergent meeting** is being convened.

ITEM NO.1: FOLLOW UP OF RESOLUTION ADOPTED WITH RESPECT TO PREVENTION, SCREENING, IDENTIFICATION & TREATMENT OF PRISONERS AND JAILSTAFF

At the outset, **Sh. Sandeep Goel, D.G. (Prisons)** apprised the Hon'ble Chair, in detail, about **concerted efforts** of officers and officials of Jail Administration being made in following and complying with the **guidelines, instructions and resolutions** passed by this Committee in its earlier meetings.

DG (Prisons) brought to the notice of the Committee about onset of second wave of COVID-19 inside the jail premises. He through his letter dated 03.05.2021 **bearing No. PS/ DGD.G.(P)/2021/856-866**, addressed to Special Secretary (Home), Govt. of NCT of Delhi, apprised the Chair that as on 03.05.2021 the cumulative figure of **COVID -19** Positive cases in Delhi Prisons is:-

<i>Prison Inmates</i>	:	319 (65 recovered, 05 expired, 249 Active case)
<i>Prison Staff</i>	:	135 (08 recovered, 127 Active cases)

D.G. (Prisons) has informed the Chair that out of the **total 249 inmates** found to be **COVID-19** positive, **63** have been isolated in jail itself, **67** have been lodged in Central Jail Hospital (Tihar), **37** in Central Jail Hospital (Mandoli), **16** in

Burari Hospital, 14 in GTB hospital, 5 in LNJP Hospital, 4 in DDU Hospital, 1 each in AIIMS and MAX Hospital; whereas 41 such inmates have been released.

D.G. (Prisons) also informed the Committee that in terms of the resolution adopted vide meeting dated 20.06.2020 as well as in subsequent meetings, Jail Administration is taking extra precautions with respect to inmates who are more than 55 years of age, so that they are not 'immuno-compromised'. D.G. (Prisons) has further assured the Committee that they shall continue doing the needful.

The Members of the Committee also deliberated upon the possible ways through which COVID-19 (Novel Corona Virus) can enter the jail premises. Deliberations were made for taking possible steps to prevent the spread of COVID-19 (Novel Corona Virus) through:

- (a) New entrants including the one's coming back to surrender after expiry of period of interim bail/emergency parole/furlough
- (b) Jail Staff, Paramilitary Staff, Medical Staff
- (c) Other persons entering the Jail premises for delivery of ration and other essential items.

Precautionary Measures for Jail Staff etc.

D.G. (Prisons) had informed that in view of resolutions passed by this Committee in the last meeting, they are **carrying out 'Rapid Tests'** of jail staff, para military staff and others, as per ICMR guidelines. He further informed that '**thermal screening**' of the jail staff is also being conducted before letting them enter the jail premises. He informed that jail staff are cautioned to wear **Mask** and to **maintain social distance**, while interacting with each other as well as with inmates. They are also cautioned to wear **Personal Protective Equipment Kit** as per need. DG (Prisons) has further informed that as suggested by the Chair, the jail staff is taking **two layer protection**, i.e. in addition to using face Mask they have also been provided with visor's, which they are using regularly.

He also informed that **till 03.05.2021**, a total number of **135 Jail Staff** were found **COVID-19 Positive**, out of which **08** have already recovered. He also apprised the Chair that at present there are **127** active cases of jail staff, most of whom are home quarantined.

D.G. (Prisons) further informed that as and when any jail staff is tested **COVID-19 Positive**, he/she is relieved from their respective duties and is asked to remain home quarantined. D.G.(Prisons) further informed that contact tracing is being done in such cases and all those who had come in contact with these Jail Staff, are being medically screened and tested. D.G. (Prisons) further informed that they have minimized the contact of jail staff, para military staff and others with the inmates, so as to prevent spread of **COVID-19** inside the jail premises.

Hon'ble Chair suggested that as the new variant of **COVID-19** is more **virulent**, therefore, the jail staff as well as inmates be directed and provided with **double masking** i.e. one surgical mask and one cloth mask. D.G. (Prisons) assured that he shall provide these masks to jail staff as well as jail inmates and shall **ensure** that inmates and jail staff use double masking at all times.

Precautionary Measures qua New Entrants including the one's coming back to surrender after expiry of period of interim bail/emergency parole/furlough

Members of the Committee after deliberations, **reiterated** that in terms of the resolution adopted in the earlier meeting, **new entrants** should be kept in "**Isolation Cells**" so as to prevent their **intermingling** with other inmates who are already inside the jail.

In the earlier meetings of this Committee, it was resolved to create "**Isolation Cells**" in Jail No.1, Jail No.2, Jail No.4, Jail No.7, and Jail No.8/9 at Tihar and Jail No.15 at Mandoli comprising of **248** individual cells (with attached toilets) for the new male entrants who are above 21 years of age; and in Jail No.5 at Tihar for fresh inmates who are between 18-21 years of age, whereas separate "**Isolation Cells**" were resolved to be created in Jail No.6 at Tihar for fresh women inmates as well.

Considering the fact that these “**Isolation Cells**” so carved out, may become fully occupied, therefore, it was resolved in the earlier meeting that requisition be made to Govt. of NCT of Delhi for allocation of Police Quarters, Mandoli situated adjacent to Mandoli Jail, for converting the said flats/quarters into a “**Temporary Jail**”. It was resolved that these flats after allocation can be put to use for creation of “**Isolation Cells**”, to keep the **new entrants** who are above 21 years of age, for initial period of 14 days, from the date of their entry.

Temporary Jail : Additional accommodation in Jail

Principal Secretary (Home), Govt. of NCT of Delhi informed the Committee that Govt. of NCT of Delhi vide Notification bearing **No.9/70/2020/HG/2427-2441 dated 31.07.2020** has been pleased to declare Police quarters in the Police Housing Complex adjoining Mandoli Jail, Delhi as “**Temporary Jail**”, till further order, in view of **COVID-19** pandemic.

DG (Prisons) has also informed the Chair that Police Housing Complex, Mandoli consists of **12 Towers**, each having **30 flats**. He informed that **two Towers** i.e. **A & F** have been kept reserved for accommodating outside security forces, so that their intermingling with jail staff is **minimized**. He informed that rest of **10 Towers** are fully functional as “Temporary Jail” where they are keeping the new entrants.

Upon being apprised about the fact that **inmates** have been presently housed in the “Temporary Jail”, and others are likely to be housed, the Chair enquired about the **security measures** put in place by the Prison Authorities, in the said “Temporary Jail” for ensuring safety and security of the inmates; and for also ensuring that no untoward incident takes place while the inmates are housed in “Temporary Jail”.

In response to the Chair's **curiosity** for the safety and security of the inmates housed in the “Temporary Jail”, D.G. (Prisons) apprised the Chair about adequate measures undertaken for '**safety**' and '**security**' of the inmates housed in the “Temporary Jail”.

He assured that all necessary precautions as per the **Standard Operating Procedures (S.O.P.)** and other protocols to be followed at the Jails, for the safety and security of the inmates, have been put in place in the "Temporary Jail". He also informed that requisite support has been taken by the Prison Administration from P.W.D to **seal** the portions of the "Temporary Jail", so as to check the unnecessary movement of the inmates inside the "Temporary Jail", especially restricting their accessibility to the Balconies of the Flats/Apartments which have been converted into "Temporary Jail". As such, the chances of escape of inmates from the Temporary Jails have also been checked and necessary precautions have been taken.

D.G. (Prisons) has further informed that as all Towers are made fully functional, this "**Temporary Jail**" can now house about **2000 inmates**. The Committee after getting this information from D.G. (Prisons) is of the view that the problem of creation of "**Isolation Cells**" for the **new entrants** in jails stands resolved to a considerable extent and the same if followed scrupulously would become instrumental in arresting the spread of **COVID-19** inside the jail.

In an eventuality of UTPs/Convicts surrendering in Delhi jails or sent after arrest, pursuant to any order passed by the Court of Law, the Chair suggested that all such UTPs/Convicts may be **housed** initially for a period of **14 days** in the **Temporary Jail** before sending them in the concerned Jail. D.G. (Prisons) **assured** the Hon'ble Chair to comply with this suggestion.

It is made clear that fresh male inmates who are between 18 to 21 years of age and fresh women inmates shall continue to be kept in separate "**Isolation Cells**" at Jail No.5 and 6 respectively at Tihar and Jail No.16 Mandoli, in terms of the earlier resolution.

Jail Hospital

Hon'ble Chairperson made enquiries regarding usage of "**Oxygen Concentration Machines**" in Jail Hospital as well as regarding "**Rapid Antigen Test Facility**" for the inmates. D.G. (Prisons) has informed that they have procured **04 "Oxygen Concentration Machines"** whereafter Delhi Health Department has also supplied them **15 "Oxygen Concentration Machines"**. Thus, sufficient number of "**Oxygen Concentration Machines**" are available in

the Jail Hospital at Tihar, Mandoli and Rohini Jail Complex. D.G. (Prisons) has further informed that inmates are being tested as per the ICMR guidelines with '**Rapid Antigen Test**'. D.G. (Prisons) has further informed that they have **sufficient availability** and regular supply of **essential medicines** and **equipment** including **oximeters** and **oxygen cylinders** in the Jail Hospitals.

Other Precautionary Measures

D.G. (Prisons) further informed the Chair about the other measures being taken by the Jail Staff, prisoners and other persons working in Jail so as to prevent the outbreak of **COVID-19 (Novel Corona Virus)** inside the Delhi Prisons. He apprised the Chair that the principle of '**social distancing**' is being followed **scrupulously**. It has further been informed that common areas which are frequented by the inmates like Bathing area, Kitchen Area and Jail Telephone Area are being regularly cleaned and sanitized using appropriate disinfectant. D.G.(Prisons) further informed that necessary precautions i.e. **Do's and Don'ts** are being told to the inmates through "**Public Address System**" installed in Jails.

D.G. (Prisons) has informed that regular medical checkup of Jail Staff and inmates is being done through Jail doctors who have been advised to immediately inform the Jail Superintendent, if they find or suspect any symptoms of **COVID-19 (Novel Corona Virus)** in any inmate so that necessary steps in terms of the advisory/guidelines issued by ICMR and Ministry of Health, Government of India, can be taken. He further informed the Chair regarding the necessary steps that are being taken to practice, promote and demonstrate **Positive Hygiene Behaviour** in Jails.

D.G. (Prisons) has submitted that besides the above, they have adopted a multi-pronged approach to tackle the threat of **COVID-19 (Novel Corona Virus)**, i.e.:

- a. **Discontinuation of all visits** of outside agencies, including NGOs.
- b. **Restriction of movements** of inmates outside the wards in Jails.

- c. **Sanitization and disinfection** of the lodgment areas of the inmates and residential complexes of staff, on **regular basis**.
- d. **All new inmates are pre-screened** at CPRO before lodging them in jail.
- e. **Procurement and distribution** of Personal Protective Equipment (PPE) Kit, Mask, Gloves, Alcohol-based hand rubs and Soaps.
- f. **Formation of Special Task Force (STF)** for Contact Tracing of suspected **COVID-19 (Novel Corona Virus)** cases in all Jails.
- g. **Psychological screening** of newly admitted inmates to properly manage their mental health issues.
- h. **Emphasis on Kitchen hygiene** and proper handling of vegetables and other essentials by personnel in kitchen/canteen.

D.G. (Prisons) has **assured** that the jail administration shall continue following these precautions and resolutions, so as to prevent the spread of **COVID-19 (Novel Corona Virus)** in the jail premises.

Committee is **satisfied** with the above steps being taken by D.G. (Prisons) and directed him to continue doing the same.

ITEMNO.2: STEPS TAKEN TOWARDS SCREENING OF JAIL STAFF, PARA-MILITARY AND MEDICAL STAFF

Considering the possibility of **COVID-19 (Novel Corona Virus)** entering the jail premises through Jail Staff, para-military staff and medical staff, besides others and its outbreak amongst the inmates, deliberations were made by the Committee about the additional measures to be taken.

On being asked by the Chair regarding implementation of resolutions adopted in the previous meeting, D.G. (Prisons) has informed that all the officers and officials of Jail Administration are strictly abiding by all those directions and have adopted multi-pronged strategies to tackle the

spread of **COVID-19 (Novel Corona Virus)** through Jail Staff and others, to the inmates.

D.G. (Prisons) has further informed the Chair that in terms of the directions given by this Committee for conducting "**Rapid Test**" of **above referred jail staff** according to ICMR guidelines, they have started getting this test conducted of the jail staff, as per need.

D.G. (Prisons) has further informed that **wearing of Mask** by the jail staff has been made **mandatory** and they have been cautioned to **maintain social distancing** while interacting with the inmates. He **assured** that from now onwards jail staff shall have **double masking** at all time while interacting with inmates.

Committee is **satisfied** with the above steps being taken by D.G. (Prisons) and directed them to continue following the same. It is **resolved** accordingly.

ITEM NO.3: VACCINATION OF JAIL INMATES AND JAIL STAFF

D.G. (Prisons) informed that jail staff was declared "**Front Line Workers**" and thus was directed to be vaccinated in the **First Phase of Vaccine Drive against COVID-19**. He further informed that more than 85% of the jail staff has been vaccinated.

D.G. (Prisons) apprised the Chair that as on date **564** jail inmates have also been vaccinated.

Principal Secretary (Home) has brought it to the notice of the Committee that Central Government has directed to vaccinate all persons above **18 years** of age **w.e.f. 01.05.2021**.

Members of the Committee have deliberated upon this issue and have **resolved** that all the jail inmates as well as jail staff are required to be **vaccinated at the earliest** so that the spread of **COVID-19** inside the jail premises can be curtailed.

Members of the Committee have requested Principal Secretary (Home) to take up this issue with the Health Department, Govt. of NCT of Delhi so as to set up **Vaccination Centres** in all the **16 Jails of Delhi** to do the needful.

Principal Secretary (Home), Govt. of NCT of Delhi has **assured** the Committee that he shall make **concerted effort** in this regard.

ITEM NO.4: TAKING STOCK OF THE CURRENT SITUATION INSIDE THE JAIL AND IN DELHI FOR DETERMINING CLASS/CATEGORY OF PERSONS WHO CAN BE RELEASED ON INTERIM BAIL TOWARDS DECONGESTION OF JAILS

Members of the Committee, reminded themselves of the object for which it was formed by **Hon'ble Supreme Court of India** in "*Suo Motu Petition (Civil) No.1/2020 - In Re: Contagion of COVID-19*" i.e. for determining **class/category** of prisoners who can be released on **interim bail/parole** depending not only upon severity of offence, but also on nature of offence and/or any other relevant factor.

This Committee was constituted by Hon'ble Supreme Court owing to the unprecedented circumstances created due to the Pandemic, resulting into lockdown and restricted functioning of the Courts, and for decongesting the jails, so that **principle of social distancing** can be followed and spread of **COVID-19** can be prevented inside the prisons.

In order to achieve the object of formation of this Committee, the Members have taken stock of the **COVID-19** situation inside the jail premises as is mentioned in **Agenda Item No.1**. Members of the Committee have further gone through latest status of **Delhi State Health Bulletin on COVID-19** of the **last 04 weeks** so as to assess the current situation of **COVID-19 in Delhi NCR**.

The cumulative data, as available on the web site of Delhi Govt. is tabulated hereunder:

Date	Test Conducted	Positive Case	Positivity rate	Deaths
01.04.2021	78073	2790	3.57%	09
02.04.2021	87505	3594	4.11%	14
03.04.2021	79617	3567	4.48%	10
04.04.2021	86899	4033	4.64%	21
05.04.2021	64003	3548	5.54%	15
06.04.2021	103453	5100	4.93%	17
07.04.2021	90201	5506	6.10%	20
08.04.2021	91770	7437	8.10%	24
09.04.2021	109398	8521	7.79%	39
10.04.2021	77374	7897	10.21%	39
11.04.2021	114288	10774	9.43%	48
12.04.2021	92397	11491	12.44%	72
13.04.2021	102460	13468	13.14%	81
14.04.2021	108534	17282	15.92%	104
15.04.2021	82569	16699	20.22%	112
16.04.2021	98957	19468	19.69%	141
17.04.2021	99230	24375	24.56%	167
18.04.2021	85620	25462	29.74%	161
19.04.2021	90696	23686	26.12%	240
20.04.2021	86526	28395	32.82%	277
21.04.2021	78768	24638	31.28%	249
22.04.2021	72208	26169	36.24%	306
23.04.2021	75037	24331	32.43%	348
24.04.2021	74702	24103	32.27%	357
25.04.2021	75912	22933	30.21%	350
26.04.2021	57690	20201	35.02%	380
27.04.2021	73811	24149	32.72%	381
28.04.2021	81829	25986	31.76%	368
29.04.2021	73851	24235	32.82%	395
30.04.2021	82745	27047	32.69%	375
01.05.2021	79780	25219	31.61%	412
02.05.2021	71997	20394	28.33%	407
03.05.2021	61045	18043	29.56%	448

Having gone through statistical information with respect to **COVID-19** in Delhi NCR, as compared to the one which existed just a couple of months back, in February, 2021, as tabulated in Minutes of Meeting dated 17.02.2021, it is **manifest** that the situation of COVID-19 in Delhi NCR is not only **alarming** but **threatening**. On daily basis, in the last month, continuously, not only the **positivity rate**, but also the **death rate** in **COVID-19 positive** cases is **spiking sharply**.

The situation, **at present**, is much more **dangerous** than it was an year ago.

Members of the Committee have been informed by D.G. (Prisons) that against the optimum holding capacity of Delhi Prisons which is **10,026**, whereas as on date **19,679** inmates are lodged, which is much beyond the holding capacity. Members of the Committee have observed that the actual population inside the jail has not only **stressed** the administration but has also **jeopardized** the necessity of observing **social distancing**, which is the need of the hour to prevent the spread of virus amongst the inmates.

Furthermore, vide notification No. 256/RG/DHC/2021 dated 08.04.2021 and No. 2/R/RG/DHC/2021 dated 19.04.2021 the functioning of the High Court of Delhi, as well as Courts subordinate to it, has been restricted only to very **urgent matters** that too **virtually**.

All these factors cumulatively suggest, that there is an **emergent** requirement of **identifying class/category** of prisoners who can be released **on interim bail/emergency parole**.

The Members of the Committee discussed and deliberated upon the proposed category of prisoners, who may be considered for grant of interim bail for **90 days** in view of the circumstances in which we are in, preferably on **'Personal Bond'**:

- (i) **Inmates undergoing Civil Imprisonment;**
- (ii) **Under trial prisoners (UTPs)** who are facing trial in a case which prescribes a maximum sentence of **7 years** or less wherein he/she is in custody for a period of **15 days or more;**

- (iii) **Under trial prisoners (UTPs)/Remand Prisoners** (with respect to whom, Charge sheets are yet to be filed), who are in custody for **15 days or more**, facing trial in a case which prescribes a maximum sentence of **7 years or less** ;
- (iv) Under trial prisoners (UTPs), who are **senior citizens more than 60 years of age** and are in custody for **three months or more**, facing trial in a case which prescribes a maximum sentence of **10 years or less**;
- (v) Under trial prisoners (UTPs), who are **less than 60 years of age** and are in custody for **six months or more**, facing trial in a case which prescribes a maximum sentence of **10 years or less**; *subject to the condition that he should not be involved in any other case which prescribes punishment of more than 7 years*;
- (vi) Under trial prisoners (UTPs), who are suffering from *HIV, Cancer, Chronic Kidney Dysfunction(UTPs requiring Dialysis), Hepatitis B or C, Asthma, and TB* and are in custody, facing trial in a case which prescribes a maximum sentence of **10 years or less** and are not involved in multiple cases;
- (vii) Under trial prisoners (UTPs) who are suffering from *HIV, Cancer, Chronic Kidney Dysfunction (UTPs requiring Dialysis), Hepatitis B or C, Asthma, and TB* and are in custody for a period of **three months or more** and facing trial in a case which prescribes punishment of **10 years upto life imprisonment** and are not involved in multiple cases.
- (viii) Under trial prisoners (UTPs) facing trial for offence **under Section 304 IPC** and are **in jail for more than six months** with no involvement in **any other case**;
- (ix) Under trial prisoners (UTPs) facing trial in a case **under Section 307 IPC** and are **in jail for more than six months**; *subject to the condition that he should not be involved in any other case which prescribes punishment of more than 7 years*;

- (x) Under trial prisoners (UTPs) (*who are related as spouse of the deceased*) facing trial for a case under **304B IPC** and are in jail for **more than one year with no involvement in any other case;**
- (xi) Under trial prisoners (UTPs) (*who are related as father-in-law, mother-in-law, brothers-in-law, sisters-in-law of the deceased*) facing trial for offence under **Section 304B IPC** and are in jail for **more than six years with no involvement in any other case;**

It has further been resolved that following category of UTPs, even if falling in the above criterion **should not be** considered :-

- (i) Those inmates who are undergoing trial for intermediary/ large quantity recovery under NDPS Act ;
- (ii) Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;
- (iii) Those under trial prisoners who are facing trial for offences under section 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, and 376E and Acid Attack;
- (iv) Those UTPs who are foreign nationals ;
- (v) Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) / PMLA, MCOCA ; and
- (vi) Cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, Terror related Cases, Riot cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.

EXCLUSION CLAUSE

Apart from the above **six categories**, Committee resolved to exclude those UTPs who after having availed the benefit of the criteria adopted in the earlier meetings, had committed fresh crimes while on interim bail. Thus, following seventh and eighth category is also included in the **exclusion clause**.

(vii) Those Under Trial Prisoners who are now in custody for an offence committed by him during the period of interim bail granted to him on the basis of criteria adopted by High Powered Committee in its earlier meetings;

(viii) Those Under Trial Prisoners who were granted interim bail on the basis of criteria adopted by High Powered Committee in its earlier meetings but failed to surrender in terms of the surrender order and are now in custody, only on execution of non-bailable warrant against him/them.

DG (Prisons) has informed that on the basis of these criteria approximately **4000 UTPs** would be benefited and their release would **ease out** the Jail Population.

The UTPs falling in above criteria may move their application for interim bail either through their **Private Counsels** or through **Panel Lawyers of DSLSA**, annexing the copy of custody warrants with the applications.

Chairperson of the Committee has directed Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLSA) to request **Principal District & Sessions Judges** to apprise all the Judicial Officers that in the event of Court being satisfied that the under trial prisoners falling in the above mentioned criteria are to be released on interim bail, they may be released on '**Personal Bond**', to the satisfaction of Jail Superintendent, so as to implement the **social distancing policy** of the Government.

It is clarified that the decision taken by this Committee for release of prisoners on "**interim bail**" vide criterion adopted hereinabove today, shall in **no way** affect the rights of other UTPs, who do not stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. The concerned courts on filing of applications by such UTPs may consider the same **on merits**, in accordance with law.

ITEM NO.5: FEEDBACK REGARDING GRANT OF "EMERGENCY PAROLE" TO THE CONVICTS BY GOVT. OF NCT OF DELHI FOR A PERIOD OF 8 WEEKS

Kanwal Jeet Arora, Member Secretary, DSLSA has informed the Chair that Govt. of NCT of Delhi vide Notification bearing No.F.18/191/2015/HG/1379/1392 dated 23.03.2020 had incorporated the provision of "Emergency Parole" in Rule 1212A.

D.G. (Prisons) has informed the Chair that vide letter bearing F.No.10/(3598848)/CJ/Legal/2021/25204 dated 26.04.2021, he has written a letter to Special Secretary (Home) Govt. of NCT of Delhi that those convicts who were earlier granted "Emergency Parole" and who surrendered after expiry of the period of "Emergency Parole" in terms of directions of this Committee may be considered for grant of fresh "Emergency Parole" for a period of 8 weeks in view of second wave of COVID-19.

Members of the Committee after going through the Prison Rules resolved that only those convicts who are otherwise eligible to be released on *parole/furlough* and those who are covered in the criteria formed on the basis of order bearing F.No.18/191/2015/HG/1428-1438 dated 27.03.2020 of Home Department of Govt. of NCT of Delhi should be recommended for grant of "Emergency Parole".

Members of the Committee have considered the request made by D.G. (Prisons) vide his letter dated 26.04.2020 and accordingly **recommend** grant of "Emergency Parole" to the eligible convicts.

Principal Secretary (Home), Govt. of NCT of Delhi **assured** the Committee that he shall make the necessary **efforts** to get the needful done, at the earliest.

ITEM NO.6: REMISSION OF SENTENCE

The members of the Committee have discussed and deliberated upon this issue. It has been **resolved** that in the case of :-

- (i) Convicts who are sentenced for **10 years** and have already completed **9 ½ years** of custody including regular remission, may be considered for **6 months special remission** of sentence by Home Department, Govt. of NCT of Delhi;
- (ii) Convicts who are sentenced for **7 years or more but less than 10 years**, and are left with only 5 months to complete the sentence, may be considered for **5 months special remission** of sentence;
- (iii) Convicts who are sentenced for **5 years or more but less than 7 years**, and left with only 4 months to complete the sentence, may be considered for **4 months special remission** of sentence ;
- (iv) Convicts who are sentenced for **3 years or more but less than 5 years**, and left with only 3 months to complete the sentence, may be considered for **3 months special remission** of sentence ;
- (v) Convicts who are sentenced for **1 year or more but less than 3 years**, and left with only 2 months to complete the sentence, may be considered for **2 months special remission** of sentence ;

Home Department, Govt. of NCT of Delhi may consider the above criteria for **Special Remission** of sentence **expeditiously**, on receipt of recommendation to that effect by D.G.(Prisons).

ADDITIONAL POINTS:-

Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authorities, has flagged following issues, resolution to which may have far reaching consequences in **decongestion of prisons**, viz.

- a. The Police Authorities, at the time of arrest of an individual are not following/complying with the **directions** and **guidelines** laid down by the Hon'ble Supreme Court in the case of *Arnesh Kumar vs. State of Bihar*. The individuals are arrested in

Mechanical manner, without recording due reasons for arrest in cases wherein prescribed punishment is less than 7 years, particularly in cases under section 379 and 411 IPC.

Suggestions:

- (i) *Commissioner Police may be directed to issue necessary guidelines to all DCPs to ensure compliance of **Arnesh Kumar's Judgment**. Operative part of Judgment be circulated amongst senior officers afresh.*
- (ii) *DSLISA may be directed to conduct sensitization programs of senior police officers online.*
- (iii) *Directions on administrative side may be issued by Principal District and Sessions Judges to Magistrates to scrupulously ensure compliance of directions passed by Hon'ble Supreme Court).*

The Committee recommends implementation of the aforementioned three suggestions.

- b. This Committee recommends that all Courts dealing with Bail Applications **shall ensure** that the copy of the Bail order is positively sent to Jail Superintendent concerned, as well as to the concerned District Legal Services Authority for record and information.

Minutes of this meeting be implemented by all concerned, in anticipation of the signatures of Members and Chairperson of the committee.

Meeting ended with Vote of Thanks to the Chair.

Sandeep Goel
D.G (Prisons)

B.S. Bhalla,
Principal Secretary
(Home), GNCTD

Kanwal Jeet Arora
Member Secretary,
DSLISA

Hon'ble Mr. Justice Vipin Sanghi
Executive Chairperson DSLISA