

MINUTES OF THE HIGH POWER COMMITTEE MEETING DATED 11th MAY, 2020 PURSUANT TO THE REPORT DATED 10TH MAY 2020

1. There is a Report dated 10th May, 2020 of Shri Sunil Ramanand, Addl. Director General of Police & Inspector General of Prisons & Correctional Services, Maharashtra, requesting for second meeting of this High Power Committee (constituted under the order dated 23.03.2020 of the Hon'ble Supreme Court) to consider the recommendations for release of further categories of prisoners mentioned in the said Report. Accordingly, this Committee meeting was convened on urgent basis to consider the recommendations in the said Report.

2. In the said Report it is stated that in view of the serious situation that has arisen as prison inmates and officers and staff serving in some of the prisons of the Maharashtra have been infected by COVID-19 and there is distinct possibility of such situation arising in other prisons too, it is requested to accept the recommendations in the said Report for release all undertrial prisoners charged for the offences punishable for 7 years or more, except those falling in following category of offences:

(1) Indian Penal Code

- a) IPC – Chapter VI–Offenses against State– IPC 121 to 130
- b) IPC – 303
- c) IPC – 364(A), 366, 366(A), 366(B), 367 to 374

- d) IPC – 376(a) to (e)
- e) IPC – 396
- f) IPC – 489(a) to (e)
- g) Bank Frauds and Major Financial Scams

(2) SPECIAL ACTS

- a) MCOC, TADA, POTA, UAPA, PMLA, Explosives Substances Act, Anti Hijacking Act
- b) NDPS (Other than personal consumption)
- c) MPID
- d) POCSO
- e) Foreigners in Prison.

3. The following data is placed before this Committee in the form of Charts :

a. There were 35,239 prisoners in the State of Maharashtra against the prison capacity of 23,547 in the 60 prisons of the State.

b. After the decision of the High Power Committee dated 25th March, 2020 (constituted pursuant to the order dated 23rd March, 2020 of the Hon'ble Supreme Court), a total 5105 prisoners were released and 3017 are in the process of being released.

c. If the recommendations in the said Report are accepted, 9520 more prisoners would be released and the total number of prisoners expected to be released would be 17642 (i.e 5105 + 3017 + 9520).

4. Having perused the said Report and considering the extraordinary circumstances pointed out in the said Report and keeping in view the safety, health and welfare of prisoners, we accept the recommendations in the said Report.

5. The decision of this High Power Committee dated 25th March, 2020 shall now be applicable also to the category of prisoners mentioned hereinbelow. We accordingly issue the following directions:

(i) All undertrial prisoners booked/charged for such offences for which maximum sentence is above 7 years shall, be favourably considered for release on interim bail (except those failing the categories enumerated below) on personal bond of such amount as may be determined for a period of 45 days or till such time as the State Government withdraws the Notification under The Epidemics Act, 1897, whichever is earlier. The initial period of 45 days shall stand extended periodically in blocks of 30 days each, till such time that the said Notification is issued (in the event the said Notification is not issued within the first 45 days). The undertrial prisoners shall report to the concerned police station, within whose jurisdiction they are residing, every 30 days. The exception made shall apply to the following category of offences:

(1) Indian Penal Code

- a) IPC – Chapter VI–Offenses against State– IPC 121 to 130
- b) IPC – 303
- c) IPC – 364(A), 366, 366(A), 366(B), 367 to 374
- d) IPC – 376(a) to (e)
- e) IPC – 396
- f) IPC – 489(a) to (e)
- g) Bank Frauds and Major Financial Scams

(2) SPECIAL ACTS

- a) MCOC, TADA, POTA, UAPA, PMLA, Explosives Substances Act, Anti Hijacking Act
- b) NDPS (Other than personal consumption)
- c) MPID
- d) POCSO
- e) Foreigners in Prison.

It is clarified that the rest of the clauses (iv) to (x) of the decision dated 25th March, 2020 of this Committee shall apply and shall form part of the present decision.

6. The data shows that there are 1340 prisoners who are above the age of 60 years. Out of these 1340 prisoners, majority of them would be able to avail the benefit of the above directions of this Committee. Insofar as remaining prisoners above 60 years age are concerned and/or those prisoners with underlying medical conditions which puts them at higher risk for severe illnesses from COVID-19, all concerned Authorities, including the concerned Superintendent of Prison shall take appropriate measures including their isolation. We make it clear that notwithstanding the decision of this Committee dated 25-03-2020 and the present decision, it would be open to such prisoners to apply for interim bail on the same terms as mentioned in the decision of this Committee dated 25-03-2020 to the concerned Court and orders may be passed after considering the facts and

circumstances of the case and examining the medical reports and other relevant records.

7. In the earlier decision dated 25th March, 2020 of this committee, we had stated that the said decision shall 'presently' not apply to the prisoners having place of residence outside the State of Maharashtra. The Said decision would now apply to the prisoners whose place of residence is outside the State of Maharashtra as well. This direction, however, shall come into effect only after the lock down period is over and public transportation is available.

Sd/-

Justice Shri A.A. Sayed, Judge, Bombay High Court

Sd/-

Shri Sanjay Chahande, Additional Chief Secretary
(A&S) Home, Govt. of Maharashtra

Sd/-

Shri S.N.. Pandey, Director General Prisons, Maharashtra