

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No.1049 of 2024

Mithilesh Kumhar @ Mithilesh Pandit Appellant
Versus

The State of Jharkhand Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Shailesh Kr. Singh, Advocate
For the State : Mr. Sachin Kumar, AAG-II
: Mr. Satish Prasad, A.P.P.

Order No. 10/Dated 25th September, 2025

1. Reference be made to the order dated 15th September, 2025.

2. Pursuant to the aforesaid order, Mr. Ajay Kumar Singh, Additional Chief Secretary, Health Department, Smt. Vandana Dadel, Principal Secretary, Department of Home, Jail & Disaster Management, Dr. Siddhartha Sanyal, Director-in-Chief, Health Services; Dr. Rahul Kumar, Medical Officer, Central Jail, Hazaribagh, Dr. Rajiv Kumar Singh, Mandal Kara, Dhanbad and Mr. Jeetendra Kumar, Jail Superintendent, Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh are present.

3. An Act has been placed for its perusal issued by the Ministry of Law and Justice notified on 21st April, 2017 to provide for the prevention and control of the spread of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome and for the protection of human rights of persons affected by the said virus and syndrome

and for matters connected therewith or incidental thereto to be known as the Human Immunodeficiency Virus And Acquired Immune Deficiency Syndrome (Prevention And Control) Act, 2017.

4. We have gone through the provision as contained under Section 5 of the aforesaid Act wherein it has been mandated that no HIV test shall be undertaken or performed upon any person with non-obstante clause subject to provisions of this Act.

5. We have also gone through Section 13 thereof wherein it has been provided that the Central Government and every State Government, as the case may be, shall take all such measures as it deems necessary and expedient for the prevention of spread of HIV or AIDS, in accordance with the guidelines.

6. Sub-Section(1) of Section 14 provides that the measures to be taken by the Central Government or the State Government under Section 13 shall include the measures for providing, as far as possible, diagnostic facilities relating to HIV or AIDS, Anti-retroviral Therapy and Opportunistic Infection Management to people living with HIV or AIDS.

7. Section 49 confers power upon the State Government to make out Rules for carrying out the provisions of this Act.

8. We have passed orders in the present case in the backdrop of the fact that the appellant, namely, Mithilesh Kumhar @ Mithilesh Pandit was in judicial custody since 02.06.2023 in Dhanbad District Jail. He was transferred from Dhanbad District Jail to Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh on 10.08.2024. He was found to be infected with 'Human Immunodeficiency Virus' [HIV].

9. As per medical report, the day when the appellant was put in judicial custody on 02.06.2023, he refused to go for HIV test.

10. The Additional Chief Secretary, Health and the Principal Secretary, Department of Home, Jail & Disaster Management, have jointly submitted that the State Government will take appropriate measures and how to deal with such situation, a deliberation is required with the Aids Control Society also.

11. This Court, considering the aforesaid submission made by the officers concerned, is of the view that the matter needs to be adjourned so that the State through that Additional Chief Secretary, Health and the Principal Secretary, Department of Home, Jail & Disaster Management with the consultation of the Nodal Agency of the State, i.e., State Aids Control Society, may be in a

position to make out guidelines/rules and its effective implementation.

12. The Additional Chief Secretary, Health, although has stated that in terms of the instruction issued by the National AIDS Control Organisation, Ministry of Health & Family Welfare, Government of India, dated 12th January, 2024, the State of Jharkhand is also taking endeavour to get the prisoners tested to put check upon spread of HIV.

13. If such instruction has already been issued, its effective implementation is to be ensured by the authorities concerned.

14. The matter, therefore, is being adjourned to be listed after six weeks so as to bring such proposal on record for further discussion on the issue.

15. List this matter on 07.11.2025.

16. The personal appearance of Mr. Ajay Kumar Singh, Additional Chief Secretary, Health Department, Smt. Vandana Dadel, Principal Secretary, Department of Home, Jail & Disaster Management, Dr. Siddhartha Sanyal, Director-in-Chief, Health Services; Dr. Rahul Kumar, Medical Officer, Central Jail, Hazaribagh, Dr. Rajiv Kumar Singh, Mandal Kara, Dhanbad and Mr. Jeetendra Kumar, Jail Superintendent, Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh is dispensed with for the present.

17. The copy of the Human Immunodeficiency Virus And Acquired Immune Deficiency Syndrome (Prevention And Control) Act, 2017 and Notification dated 12th January, 2024 be kept on record.

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

25th September, 2025

Birendra/