

ITEM NO.12

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**  
**RECORD OF PROCEEDINGS**

SWP [CRL.] 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. 203408/2022 - APPROPRIATE ORDERS/DIRECTIONS  
IA No. 203407/2022 - INTERVENTION APPLICATION

WITH

SLP(Cr1) 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, MAHFOOZ A NAZKI FOR STATE OF ANDHRA PRADESH, MR. SACHIN PATIL FOR STATE OF MAHARASHTRA, MR. D.L CHIDANANDA FOR STATE OF KARNATAKA, MR. GARVESH KABRA FOR STATE OF UP, MR. S.N TERDAL FOR ANDAMAN AND NICOBAR ISLANDS, MR. HARSHAD V HAMEED FOR STATE OF KERALA, MR. SHO VAN 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. Pukhrambam 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., Ms. K. ENATOLI SEMA, ADVOCATE FOR STATE OF NAGALAND, Mr. Shirin Khajuria, Advocate for State of Goa [FOR FURTHER DIRECTIONS])

I.A. NOS.216942 & 216944/2023, 216745 & 216747/2023, 216721 & 216725/2023, 216932 & 216934/2023, 216924 & 216928/2023, 216937 & 216938/2023, 216872 & 216873/2023, 216901 & 216910/2023, 216710 & 216712/2023, 216834 & 216835/2023, 216618 & 216619/2023, 216606 & 216611/2023, 216671 & 216672/2023, 216767 & 216769/2023, 216867 & 216868/2023, 216859 & 216861/2023, 216854 & 216855/2023, 216847 & 216848/2023, "216679& 216683/2023, 216688 & 216689/2023, 215805 & 215808/2023, 215820 & 215823, 215801 & 215802/2023, 215796 & 215799/2023, 215736 & 215737/2023, 215733 & 215734/2023, 215739 &

**215741/2023****(Applications for impleadment and exemption from filing affidavit)****Date : 31-10-2023 These matters were called on for hearing today.****CORAM :****HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE SUDHANSHU DHULIA  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA****By Courts Motion****Mr. Gaurav Agrawal, Adv. (NALSA)****Mr. Devansh A. Mohta, Advocate (A.C.)****Mr. Sanjay Sing, Adv.****Ms. Liz Mathew, Adv. (AC)****Ms. Mallika Agarwal, Adv.****Mr. Nisarg Bhardwaj, Adv.****For parties****Mr. Abhimanyu Tewari, AOR****Mrs. Eliza Bar, Adv.****Mr. V.K. Khanna, Sr. Adv.****Mr. Hitesh Kumar Sharma, Adv.****Mr. Akhileshwar Jha, Adv.****Mr. S.K. Rajora, Adv.****Mr. Neeraj Singh, Adv.****Ms. Ritika Raj, Adv.****Ms. Niharika Dwivedi, Adv.****Mr. Ashok Kumar Panda, Sr. Adv.****Mr. Chanchal Kumar Ganguli, AOR****Mr. Soumitra G. Chaudhuri, Adv.****Mrs. Niranjana Singh, AOR****Mr. Vikas Chaudhary, Adv.****Mr. Milind Kumar, AOR****Ms. Neha Kapoor, Adv.****Ms. Malini Jain, Adv.****Mr. Nikhil Goel, AOR****Mr. Mahfooz Ahsan Nazki, AOR****Mr. Polanki Gowtham, Adv.****Mr. T Vijaya Bhaskar Reddy, Adv.****Mr. Kv Girish Chowdary, Adv.****Mr. Meeran Maqbool, Adv.****Ms. Ruchi Guasain, Adv.**

**Mr. Sachin Patil, AOR**

**Mr. D.L Chidananda, AOR**

**Mr. Piyush Beriwal, Adv.**

**Mr. B.K.Satija, Adv.**

**Mr. A.K.Kaul, Adv.**

**Mr. Raghav Sharma, Adv.**

**Ms. Mrinal Elkar Mazumdar, Adv.**

**Mr. Mukesh Kr.Verma, Adv.**

**Mr. Neeraj Kr.Sharma, Adv.**

**Ms. Indira Bhakar, Adv.**

**Ms. Priyanka Sharma, Adv.**

**Mr. Prahil Sharma, Adv.**

**Mr. Hatender Singh, Adv.**

**Mr. Ambuj Saraswat, Adv.**

**Mr. Pawan Kumar Sharma, Adv.**

**Mr. Shreekant Neelappa Terdal, AOR**

**Mr. Harshad V. Hameed, AOR**

**Mr. Dileep Poolakkot, Adv.**

**Mr. Subhash Chandran K.R., Adv.**

**Mrs. Ashly Harshad, Adv.**

**Dr. Prahlad Narayan Singh, Adv.**

**Mr. Shovan Mishra, AOR**

**Ms. Bipasa Tripathy, Adv.**

**Mr. Shekhar Raj Sharma, A.A.G.[N.P]**

**Ms. Akshaya Jebakumar, Adv.[N.P]**

**Dr. Monika Gusain, AOR [N.P]**

**Mr. Abhinav Mukerji, AOR**

**Mr. Bharat Bagla, Adv.**

**Mr. Siddharth Dharmadhikari, Adv.**

**Mr. Aaditya Aniruddha Pande, AOR**

**Mr. Sourav Singh, Adv.**

**Mr. Aditya Krishna, Adv.**

**Mr. Pukhrambam Ramesh Kumar, AOR**

**Mr. Karun Sharma, Adv.**

**Ms. Rajkumari Divyasana, Adv.**

**Ms. Swati Ghildiyal, AOR**

**Ms. Deepanwita Priyanka, Adv.**

**Ms. Devyani Bhatt, Adv.**

**Mr. Shuvodeep Roy, AOR**

**Mr. Pashupatinath Razdan, AOR**

Ms. Maitreyee Jagat Joshi, Adv.  
Mr. Astik Gupta, Adv.  
Ms. Akanksha Tomar, Adv.  
Ms. Priyanka, Adv.  
Mr. Argha Roy, Adv.  
Mr. Gaurv Kumar, Adv.

Ms. K. Enatoli Sema, AOR

Mr. Shirin Khajuria, AOR  
Ms. Nayan Gupta, Adv.  
Ms. Oshi Verma, Adv.

Mr. Hari Prasad, Sr. Adv.  
Mr. V.K. Biju, AOR  
Ms. Ria Sachthey, Adv.  
Mr. Chetanya Singh, Adv.  
Mr. Amlendu Kumar Akhilesh Kumar Jha, Adv.  
Ms. Rubina Jawed, Adv.  
Dr. Ranjeet Bharti, Adv.

Mr. Kartikeya Rastogi, Adv.  
Ms. Inderdeep Kaur Raina, Adv.  
Mr. Rishi Malhotra, AOR

Mr. Yash S. Vijay, Adv.  
Mr. Mrigank Prabhakar, AOR

Mr. Avijit Mani Tripathi, AOR  
Mr. Upendra Mishra, Adv.  
Mr. P.S. Negi, Adv.

Ms. Garima Prasad, Sr. Adv. (AAG)  
Mr. Garvesh Kabra, AOR  
Mr. A. Shaikh, Adv.  
Mr. Avanish Deshpande, Adv.

Ms. Prachi Mishra, A.A.G.  
Mr. Sumeer Sodhi, AOR  
Mr. Dipesh Singhal, Adv.  
Ms. Rebecca Mishra, Adv.

Mr. Sahil Tagotra, AOR  
Ms. Abhivyakti Banerjee, Adv.  
Mr. Gajendra Singh Negi, Adv.  
Ms. Sakshi Garg, Adv.

Ms. Prachi Mishra, A.A.G.  
Mr. Sumeer Sodhi, AOR  
Mr. Dipesh Singhal, Adv.  
Ms. Rebecca Mishra, Adv.

Mr. Sunny Choudhary, AOR  
Mr. Ajay Sharma, Adv.  
Mr. Karan Bishnoi, Adv.

M/S. Arputham Aruna And Co, AOR

Mr. Ajay Pal, AOR  
Ms. Sugandh Rathor, Adv.  
Mr. Mayank Dahiya, Adv.

Mr. Aravindh S., AOR  
Ms. Mahimai Jayam, Adv.  
Mr. Abbas, Adv.

Ms. Mridula Ray Bharadwaj, AOR  
Mr. Vedant Bharadwaj, Adv.  
Ms. Tanuja Sharma, Adv.  
Dr. Manoj Kumar, Adv.  
Mr. Rakesh Kailash Sharma, Adv.

Mr. Prashant Shrikant Kenjale, AOR

Mr. T.K. Nayak, Adv.  
Ms. Marbiang Khongwir, Adv.

Mr. Shibashish Misra, AOR

Mr. Kanhaiya Singhal, AOR  
Mr. Prasanna, Adv.  
Mr. Teeksh Singhal, Adv.  
Mr. Udit Bakshi, Adv.  
Mr. Ujwal Ghai, Adv.  
Ms. Vani Singhal, Adv.

Mr. Mandaar Mukesh Giri, Adv.  
Mr. Mukesh K. Giri, AOR

Mr. Sameer Abhyankar, AOR  
Ms. Vani Vandana Chhetri, Adv.  
Ms. Nishi Sangtani, Adv.  
Mr. Naman Jain, Adv.

Ms. Enakshi Mukhopadhyay Siddhanta, AOR  
Mr. Sovon Siddhanta, Adv.

Mr. Partha Sil, AOR  
Mr. Tavish Bhushan Prasad, Adv.  
Ms. Sayani Bhattacharya, Adv.

Mr. Gurmeet Singh Makker, AOR

Ms. Uttara Babbar, AOR

**Ms. Sampriti Baksi, Adv.**

**Ms. Vanshaja Shukla, AOR  
Ms. Ankeeta Appanna, Adv.  
Ms. Rachna Gandhi, Adv.**

**Mr. Tapesk Kumar Singh, AOR  
Mr. Aditya Pratap Singh, Adv.**

**Mr. Divyakant Lahoti, AOR  
Ms. Vindhya Mehra, Adv.  
Ms. Praveena Bisht, Adv.  
Mr. Kartik Lahoti, Adv.  
Ms. Garima Verma, Adv.  
Mr. Kumar Vinayakam Gupta, Adv.  
Ms. Mallika Luthra, Adv.  
Mr. Saksham Barsaiyan, Adv.  
Ms. Shivangi Malhotra, Adv.**

**Mr. Sanjai Kumar Pathak, AOR  
Mr. Arvind Kumar Tripathi, Adv.  
Mrs. Shashi Pathak, Adv.**

**Mr. Gopal Jha, AOR  
Mr. Joydip Roy, Adv.  
Mr. Shreyash Bhardwaj, Adv.**

**Mr. P. I. Jose, AOR  
Mr. Ravi Sagar, Adv.**

**Mr. Mahesh Thakur, AOR**

**Mr. Raghavendra S. Srivatsa, AOR  
Mr. Venkita Subramoniam T.r, Adv.  
Mr. Likhi Chand Bonsle, Adv.  
Ms. Komal Mundhra, Adv.  
Mr. Rahat Bansal, Adv.  
Ms. Anagha N. Sharma, Adv.**

**Mr. Kedar Nath Tripathy, AOR**

**Mr. V Balachandran, Adv.  
Mr. Siddharth Naidu, Adv.  
For M/S. Ksn & Co., AOR**

**Mr. Manish Kumar, AOR**

**Mr. Debojit Borkakati, AOR**

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

Applications for exemption from filing affidavit are allowed.

SLP(Cr1) No. 529/2021  
STANDARD OPERATING PROCEDURE (SOP) FOR PREMATURE  
RELEASE ON THE PROCESS OF PREMATURE RELEASE, PAROLE  
AND FURLOUGH OF PRISONERS, 2022

Mr. Gaurav Agarwal, learned Amicus points out that a letter dated 23.10.2023 has been sent on behalf of NALSA to Member Secretaries of all the State Legal Service Authorities seeking the requisite data in the proforma set out therein. The last date for submission of the same is set out as 30.11.2023. On the data being received, NALSA will process the same and place it before the next date.

The State Legal Service Authorities should ensure that the data as per the time specified in the aforesaid letter is sent to NALSA for which we have issued a direction earlier.

E-PRISON MODULE

In terms of the aforesaid letter dated 23.10.2023, the requisite data has been sought within a period of two months from the receipt of the said letter in terms of the para 3(ii).

This aspect will thus, be examined on 23.01.2024.

**COMPLIANCE REPORT ON PREMATURE RELEASE DIRECTIONS BY STATES**

There are four States which were to show progress i.e. Haryana, Himachal Pradesh, Goa and Delhi.

A letter is stated to have been received from Inspector General of Prisons, Government of Haryana which shows that a meeting was held on 26.10.2023, on the anvil of the three months' time period expiring. We do not appreciate this! What we had observed was that any application pending should be "cleared" within the next three months and not that to complete a formality, a meeting is held on the anvil of the date fixed before the Court.

On our query, none appears for the State of Haryana.

Let notice issue to the Inspector General of Prisons, Haryana to either ensure that there is representation on behalf of the State of Haryana or to remain personally present in Court on the next date.

Learned Amicus points out that insofar as the States of Himachal Pradesh and Goa are concerned, they have requested for 15 days more. Time period, as prayed for is granted. Compliance affidavit be accordingly filed by the concerned States.

Learned counsel for the State of Himachal Pradesh states that the needful has already been done, but the affidavit was received only today and will be filed.

In respect of Delhi, learned Amicus states that he personally visited the Tihar Jail and discussed the matter with the DGP, Tihar. The tentative figures for the last three years are as under:

S.No.	Date of meeting	Cases placed	Recommended	Rejected	Deferred
1)	28.02.2020	200	31	166	3
2)	11.05.2020	37	22	15	-
3)	05&06.08.2020	184	37	147	-
4)	11.12.2020	186	39	146	1
5)	25.06.2021	179	33	146	-
6)	27.08.2021	39	14	25	-
7)	21.10.2021	161	19	142	-
8)	02.03.2022	28	15	12	1
9)	14.12.2022	61	24	29+1 (1 case of Wahid Ahmed withdrawn as released by Delhi High Court]	7
10)	30.06.2023	247	Final result	Final result	Final result
11)	Next meeting of the Board will be 03.11.2023	110 cases will be placed			

The details of actual releases have not been made available. It is also not clear as to whether the decisions of rejection have been communicated to the convicts and whether reasons for rejection have been also specified in communication. In the duality

of the administrative structure for Delhi, learned Amicus submits that the Sentence Review Board is with the State Government and then approval is by the Lieutenant Governor.

We call upon the Delhi Government to place a clear picture in respect of the aforesaid before us by filing an affidavit within two weeks, this is more so as we find that there is a large percentage of rejected cases.

The affidavit should also broadly specify the categories where such rejection has taken place.

Since none is present for the State Government of Delhi, let notice issue to the Chief Secretary forthwith to ensure that there is representation before the Court on the next date and the affidavit is filed within the time stipulated.

List on 12.12.2023 at the end of the Board.

SWP [CRL.] No.4/2021  
EXECUTION OF BAIL ORDERS

Learned Amicus states that NALSA may require some more time to work out on the directions issued on the last date in collaboration with the State Judicial Academies.

This issue will be taken up on 23.01.2024.

In this regard, the problems faced by the under trials from other States in obtaining sureties will also be taken into account.

**PROVISIONS RELATING TO PLEA BARGAINING/COMPOUNDING/PROBATION OF OFFENDERS ACT**

A further report pursuant to our last order received from Allahabad High Court is regarding number of cases identified and disposed of in this behalf is enumerated as under:

Method	Total number of cases identified	Total number of cases decided till 20.06.2023		Remaining Balance
Method No.1 Plea bargaining	1196	649		547
		Successful	Unsuccessful	
		484	165	
Method No.2 Compounding Offences	66999	27275		39724
		Successful	Unsuccessful	
		16463	10812	
Method No.3 Probation of Offenders Act, 1958	904	410		494
		Successful	Unsuccessful	
		312	98	
<b>Total</b>	<b>69099</b>	<b>28334</b>		<b>40765</b>
		Successful	Unsuccessful	
		17259	11075	

We must say that there are some encouraging signs as per the aforesaid data.

Learned Amicus rightly points out that one of the impediment is that in the concept of plea bargaining as adopted statutorily, that is really only sentence bargaining which takes place and whether this can be further modulated is something which the NALSA may consider and a recommendation can be made to the Law Commission towards the said objective.

List on 23.01.2024.

**SLP [CRL.] NO.529/2021**  
**NOTE BY NALSA FOR THE HEARING**  
**REGARDING E-PRISON MODULE**

A report has been filed by Mr. Devansh A. Mohta, learned Amicus analyzing the information received from different States. The directions which he seeks for are set out at page J as under:

**"REGARDING E-PRISON MODULE**

(i) At this juncture States may be directed to ensure that in relation to inmates languishing in jail the key data element namely FIR No.CNR/PTN number-Prison ID are collated and updated in the e-prison portal.

(ii) The remaining 9 States be directed to file their response to Draft Information Sharing Protocol.

(iii) States may be directed to take appropriate steps to secure requisite manpower for the purpose of efficient operation of operation of e-prison portal."

The aforesaid directions are sought in the context of a large number of States having responded but 9 States having not responded. Mr. Mohta may address those 9 States and seek the information as per order dated 25.07.2023 enclosing our order passed today.

We may take cognizance of the Note For Hearing submitted by Mr. Gaurav Agarwal on behalf of NALSA. The view expressed is that the suggestions made by the learned Amicus can be explored at a future date, more so, as data sharing may have repercussions on

the privacy and security of the system.

The e-Committee of this Court would also have to examine that aspect. It further appears from the note that NALSA would like to confine itself to the cases entrusted to NALSA rather than across the board which would have to be done by some other authorities.

We may note that in para 19 of the Note of Hearing submitted by Mr. Mohta, response has been given to the aspect of privacy and security of the system suggesting that the apprehension can be allayed with the perusal of the draft information protocol at page 294 of that Note.

List on 12.12.2023 at the end of the Board.

We are conscious of the fact that law and order is State subject, but would like to have the assistance of Mr. K.M. Nataraj, learned Additional Solicitor General who has been earlier assisting this Court in this matter *qua* some aspects.

Let notice issue to learned ASG for the said purpose.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR CUM PS

(POONAM VAID)  
COURT MASTER (NSH)