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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(Crl.) 673/2024

COURT ON ITS OWN MOTION Petitioner

Through:

versus

DIRECTOR GENERAL OF PRISONS,
GOVT. OF NCT OF DELHI Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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19.02.2024

1. By order dated 08.02.2024 in CRL.REV.P. 1362/2023, the sentence awarded to the petitioner therein was suspended and he was directed to be released on bail on certain conditions and on furnishing a bail bond to the satisfaction of the Jail Superintendent.
2. An application was filed pointing out that the bail bond which was directed to be furnished to the satisfaction of the Jail Superintendent, has not been processed. The grievance raised by the learned counsel for the petitioner was that, despite the sentence being suspended by this Court by the order dated 08.02.2024, the petitioner has not yet been released.
3. The petitioner was compelled to approach this Court seeking modification in the order dated 08.02.2024 to the extent that the petitioner be directed to furnish the bail bond to the satisfaction of the learned Trial Court instead of the concerned Jail Superintendent.
4. It was alleged that the formalities in relation to the acceptance of bail bond by the Jail Superintendent takes



approximately one to two weeks.

5. The object of granting bails and suspending sentences is to release the accused/convict from imprisonment. In certain cases, interim bails are granted on medical grounds or some other exigencies, as expressed by the applicant. In such a scenario this Court fails to understand why the period of one to two weeks be taken by the Jail Superintendent for accepting the bail bonds.

6. The Hon'ble Supreme Court has time and again reiterated the principal – “*Deprivation of Liberty for a single day is a day too many..*”. The Hon'ble Supreme Court in ***Suo Motu Writ Petition (Civil) No.4/2021***, has issued guidelines for the compliance of bail orders, The same are reproduced as follows:

“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”

(emphasis supplied)

7. The Hon’ble Supreme Court in ***Suo Motu Writ Petition (Civil) No.4/2021*** also passed directions to adopt the procedure termed as ‘FASTER’ for Fast and Secured Transmission of Electronic Records, in order to reduce the delay caused in forwarding the orders granting bail to the Jail Authorities.

8. The Rule 7 is incorporated in part E of the Chapter 14 of the Delhi High Rules & Orders, the same reads as under:

I. The following Rule shall be introduced as Rule 7 after the existing Rule 6 of Part E of Chapter 14 of Delhi High Court Rules & Orders, Volume I:-

“7. Fast and Secured Transmission of Electronic Records (FASTER):

The e-authenticated copies of the interim orders, stay orders and record of proceedings of the courts transmitted through Fast and Secured Transmission of Electronic Records (FASTER) System shall be valid for compliance of the direction contained therein.”

II. The following Rule shall be introduced as Rule 7 after the existing Rule 6 of Part H of Chapter 25 of Delhi High Court Rules & Orders, Volume III:-

“7. Fast and Secured Transmission of Electronic Records (FASTER):

The e-authenticated copies of the interim orders, stay orders, bail orders and record of proceedings of the courts transmitted through Fast and Secured



Transmission of Electronic Records (FASTER) System shall be valid for compliance of the direction contained therein.”

9. Any order passed by this Court thereby directing the release of the prisoner from jail is sent directly to the concerned jail authorities through FASTER cell.
10. The Court while passing bail order at times directs that the Bails bond be directly furnished to the Jail Superintendent. The prisoner is not remitted to the Trial Court in order to facilitate the immediate release.
11. The delay at the instance of the Jail Superintendent in accepting Bail Bonds is not acceptable to the conscience of this Court. Let the matter be registered as *Sou Motu* petition and numbered.
12. Let notice of the present petition be issued to the Director General of Prisons and Standing Counsel (Criminal), Government of NCT of Delhi.
13. Ms. Nandita Rao, learned Additional Standing Counsel, who is present in Court, disputes the aforesaid position. She submits that the petitioner’s case is possibly an aberration and delay normally does not occur on the part of the Jail Superintendent.
14. She is requested to accept notice in the present case and file an appropriate affidavit.
15. List for compliance on 07.03.2024.

AMIT MAHAJAN, J

FEBRUARY 19, 2024/‘hkaur’