

## RAMU VS. STATE OF U.P. : A REPORT BY UPSLSA

Hon'ble the High Court of Judicature at Allahabad, in Criminal Misc. Bail Application No. 17912 of 2019 Ramu Vs. State of U.P., has shown concern regarding long detention of prisoners and passed several directions pertaining to their release from jails to prevent undue long detention of Under Trial Prisoners (UTPs).

## HIGHLIGHTS OF JUDGEMENT- ANIL GAUR (SUPRA)

Earlier the Hon'ble High Court of Judicature at Allahabad in Criminal Misc. bail Application No. 16961 of 2022 Anil Gaur @ Sonu @ Sonu Tomar Vs. State of U.P. vide order dated 12.09.2022 issued various directions pertaining to proving legal aid to UTP and filing their bail application timely before the Trial Court/Hon'ble High Court. The Hon'ble High Court has passed following directions briefly:-

- Identifaction of prisoners who have not applied for bail or subsequent bail before trial court/High Court in timely manner.
- Identification of prisoners not able to effectively prosecute their pending bail application.
- Ascertain the inability of prisoners.
- Educate prisoners about their rights of legal aid and bail.
- Provide legal aid and facility of filing bail application in timely manner.
- Facilitate counsel in gathering necessary information and document for effective prosecution of bail applications.

#### COMPARISON

The Hon'ble High Court of Judicature at Allahabad in the case of Ramu vs. State of U.P. have reiterated the directions earlier propounded in Anil Gaur (Supra) case with certain benevolent concerns of long detained prisoners along with the duties of the other stakeholders of the criminal justice system. This judgment contains following novel/maiden suggestions/directions:

- The Hon'ble Court in its latest judgment have modified the timeline for filing of bail & subsequent bail applications of prisoners at various level.
- The Hon'ble Court has also suggested and directed to collect the information of every prisoners on Appendix 1 with the help of various stakeholders in order to identify the prisoner and facilitate the process.
- Hon'ble Court has also directed and suggested the duties of other stakeholders like Magistrate/trial courts, District & Sessions Judge, Jai Authorities, State Government, Registrar General etc. apart from Lega Services Institutions.

#### COMPLIANCES BY UPSLSA

The Legal Services Institutions are almost in place pertaining to the compliance of directions passed by Hon'ble Court in Anil Gaur (Supra) case. Measures adopted by the UPSLSA and DLSAs in compliance of the direction contained in Anil Gaur (Supra) are as follows;

- A SOP has been prepared and circulated to all the DLSAs after the approval of the Hon'ble Executive Chairman, UPSLSA.(Annexure-1)
- Prisoners are being informed about their right to free legal aid by the Secretary, DLSAs, LADCs, Panel Lawyers, Jail PLVs regularly. Jail Authorities are also advised to interact with the jail inmates and inform the DLSA as and when a prisoner require the legal aid.
- Legal Service Institutions conducts drive, for awareness on weekly basis
  and for identification of every prisoners who are not able to file their bai
  applications within the stipulated time on monthly basis.
- Prisoners are identified by the Jail PLVs, Jail Visiting Panel Lawyers, LADCs, Jail Authorities, Secretary DLSAs on regular basis pertaining to those who have not been able to file their application before the trial court.
- DLSAs, through its PLVs, interact with the family members of prisoners for collection of necessary documents to facilitate legal aid counsel for filing of bail applications.
- If the concerned prisoner is pursuing his case through private lawyer,
   DLSA interacts and request to private lawyer to move the bail application before the trial court.
- If private lawyer of the prisoner is under any impediment or the prisoner agrees to file his bail application through legal aid counsel, then Secretary DLSA appoints a LADC/ Panel Lawyer to proceed in furtherance of the directions contained in Anil Gaur (Supra).
- If such bail is moved before the magistrate court and if it is rejected by that court, then the bail is filed before the sessions court against that rejection order of the magistrate court.
- If bail is rejected by the either court at District level, then matter is
  forwarded to the High Court Legal Services Committee for filing of bai
  before Hon'ble High Court.
- The UPSLSA also ensures the monitoring and updation of status of bail applications filed under the direction of the Hon'ble High Court or otherwise by the DLSAs on frequent and regular intervals. To ensure the same, periodical meetings with all DLSAs are conducted through VC by the Member Secretary UPSLSA and district-wise one to one interactions are also conducted by the officers of the UPSLSA for follow-up actions.

- The UPSLSA also interacts with all stakeholders, like Secretary, DLSAs, Jail Authorities, LADCs, Panel Lawyers, PLVs on monthly basis.
- When it comes to the notice of the DLSAs that subsequent bail is to be file
  after stipulated time from date of rejection of first bail, directions are
  issued to the concerned LADCs/Panel Lawyers to move in furtherance of
  the directions contained in SOP
- The UPSLSA also ensures effective monitoring of bail & subsequent bail application filing and their disposal, where first, second or other bail applications have been rejected by the trial courts/Hon'ble High Court.

Followings are the area, where legal services institutions are to comply the directions of Ramu Vs State case:

- Collection and maintenance of record of all the prisoners on Appendix-1 with the help of concerned prisoner, police station, jail authorities, web portals of CIS, e-Prison, CCTNS etc.
- Follow-ups and monitoring of new timeline of trigger events for every prisoner.
- Timely information sharing between DLSAs and HCLSCs.

#### MAJOR HIGHLIGHTS OF THE JUDGEMENT

The Hon'ble High Court has passed following directions briefly:-

- Awareness and identification of prisoners who are not able to file their bail applications for various reasons.
- Suggested timeline for trigger events for enquiry into the need of legal aid and filing of bail application at various levels, ranging from 01 week to 01 year (Annexure-2).
- The duties of Magistrate/ Trial Court regarding examination and education
  of prisoners to file bail applications at different stages, recording of
  finding, submission of requisition to the DLSAs, passing order for grant of
  legal aid, collection of information on Appendix-1 from various sources
  etc. (Annexure-3).
- The duties of District Legal Services Authority to maintain records on Appendix-1, taking assistance of PLVs, inform every prisoners of their right to legal aid and filing of bail, provide legal aid to every eligible prisoner at different trigger events in proposed timeline, filing of bail applications, arrangements of relevant documents and information, apprise to prisoners about the status, oversee the process, coordination with Trial Courts/HCLSC and Jails etc. (Annexure-4).
- Duties of Secretaries, High Court Legal Services Committee to ensure proper coordination with DLSAs, to facilitate filing of bail application,

- provide support to DLSAs to gather information on Appendix-1, suitable steps to implement the judgement (Annexure-5).
- Duties of Secretary, State Legal Services Authority to take steps for implementation of direction of the Hon'ble Court in Anil Gaur (Supra) case (Annexure-6).
- Duties of the District & Session Judges is to regularly supervise the implementation of direction, extend support and guidance in collection of information in Appendix-1, to take status report from DLSAs, to ensure coordination with all stakeholders to develop procedure etc. (Annexure-6).
- Duties of Jail Superintendent to maintain record of every prisoners on Appendix-1, coordination with DLSA and HCLSC, inform prisoner about their right to legal aid and bail, submission of requisition to DLSA and HCLSC for filing bail at different trigger events, assist legal aid counsel in gathering all relevant details, updation of status of pending bail, implementation of relevant rules, arrangement for VC, submission of bimonthly reports etc. (Annexure-7).
- Duties of the State Government to provide details of prisoners in Appendix-1, develop IT solutions to provide relevant information, directions for coordination with departments, examination of quarterly reports of prison department etc. (Annexure-8).
- Suggestive measures for the Registrar General to render assistance to Trial Courts/ DLSAs for obtaining details, provide infrastructural support capacity building of magistrate, established necessary coordination etc. (Annexure-9).

#### CONCLUSION

The Hon'ble High Court's direction in latest judgment of Ramu Vs State of UP has paved the way to effective & timely dispensation of justice to those, who are waiting since long for restitution their most valuable fundament right of the freedom. Earlier the legislative mandate to provide free and competent legal services to prisoners was on the shoulders of the legal services institutions and major directions (of Anil Gaur Case) are already in place with respect to Legal Services Authorities

This judgment marks the duties & role of other stakeholders, viz. Magistrate/trial courts, District & Sessions Judge, Jail Authorities, State Government etc., would lead to smooth coordination amongst stakeholders and effective implementation of legal rights of the prisoners. The circulation of this judgment would not only awaken the consciousness of the courts with respect to prisoners rights, but also would ensure the fulfilment of constitutional mandate of free & competent legal services and dispensation of justice to the prisoners.

# Standard Operating Procedure (SOP) for providing Legal Aid to the Under Trial Prisoners to file their Bail Applications in time before the Trial Court/Hon'ble High Court

This Standard Operating Procedure (SOP) has been prepared by the U.P. State Legal Services Authority (UPSLSA) in compliance of the **order dated 12-09-2022**, **passed by Hon'ble the High Court of Judicature at Allahabad, in Criminal Misc. Bail Application No. 16961 of 2022 Anil Gaur @ Sonu @ Sonu Tomar Vs. State of U.P., to prevent undue long detention of Under Trial Prisoners(UTPs).** 

The Hon'ble Court has directed the UPSLSA to prepare a SOP for legal aid prisoners, accused of various crimes, including heinous offences, who have not filed bail applications before the Hon'ble High Court within a period of one year after the rejection of the bail by the Trial Court and also to prepare a SOP for the above mentioned prisoners, who have not been able to move bail applications before the Trial Court, 06 months after imprisonment.

## ANNEXURE – 2

The Hon'ble Court has directed that the suggested timeline for trigger event for enquiry into need for legal aid is as follows:-

	Time period since the imprisonment when the bail application should be filed before trial court	
	Time period when the bail application should be filed before High Court after rejection of the bail application by the trial court	
	Time period of filing subsequent bail applications after rejection of earlier bail application by the High Court. (The process will be repeated after the time gap)	1 year Or if advised at a prior period in time.
4	Time period for bail application after earlier bail application was dismissed for non prosecution	One week

#### ANNEXURE – 3

#### A. The duties of the magistrate/trial courts:

I. The learned trial court/learned magistrate shall examine whether the accused/prisoner appearing before them has been apprised of the right to file a bail application at different stages or trigger events in the suggested timeline and whether such right has been exercised (See: Paras

111,112,113,114 of this judgment) and the eligibility of said accused for legal aid.

II. The learned magistrate/learned trial court after the above consideration at the occurrence of the trigger event or expiration of the time limit in the suggested time frame (see: Paras 111,112,113,114) shall make a finding on the need/eligibility of the prisoner for legal aid and exercise either of the following options:

- a) The learned magistrate or learned trial court shall send a requisition to the District Legal Services Authority or the Secretary. High Court Legal Services Committee to provide legal aid to the prisoner to apprise them of the right to seek bail and to file the bail application before the competent court.
- b) The learned magistrate or learned trial court may pass orders for grant of legal aid to the accused/prisoner for the above said purpose.

III. There are many prisoners who face trial in a district court but are lodged in a jail in another district. The learned magistrate/trial court shall recommend grant of legal aid to the District Legal Services Authorities of either district.

Alternatively the learned magistrate or learned trial court, can pass orders for grant of legal aid to the accused/prisoners.

IV. To process the need for legal aid the learned magistrate/learned trial court can rely on the materials in the record, and may also seek the necessary information (suggested details in Appendix-I) from any competent authority which can furnish the said information including Public Prosecutor/ State, Police authorities, District Legal Services Authorities, Jail authorities, High Court Registry or official websites which can be legally accessed. (At a later stage the said details shall be made available to the learned magistrate/ learned trial court in an auto-generated form by the competent authorities).

V. The learned magistrate/ learned trial court may take any other step or measure to realize the rights of prisoners to legal aid and to seek bail respectively and to implement this judgement.

VI. The learned magistrate/learned trial court shall examine the need of legal aid irrespective of whether such prisoner is represented by a local counsel at the trial or has been provided with a defence counsel.

VII. After the rejection of any bail application the learned trial court/learned magistrate are directed to ensure that the trial process is expedited in strict adherence to provisions of Section 309 Cr.P.C. and in conformity with fundamental principle of fair trial. In doing so the trial court shall be guided by the law laid down by this Court in **Bhanwar Singh** Waramyir Vs. State of U.P. and Noor Alam Vs. State of U.P.

## B. Duties of District Legal Services Authorities:

- 120. In wake of the preceding discussion the duties of the District Legal Services Authorities are summed up as follows:
  - I. The District Legal Services Authorities shall maintain records of each prisoner containing all information required for determining the need of a prisoner for legal aid and to file a bail application before the competent court. A suggested framework of such details is appended as appendix-I which can assist the District Legal Services Authorities to perform its functions
  - II. As of now the DLSAs may utilize the available resources like Allahabad High Court Website, obtain information from authorities and "any other official resources/digital platforms" they can lawfully access.
  - III. The task of gathering the aforesaid factual details (Appendix-I) is undoubtedly a time consuming exercise. The DLSAs may also need additional resources. The DLSAs may consider feasibility of taking the assistance of para legal volunteers and law students for collecting the said factual details. The DLSAs may also make local innovations with the existing resources to create the database of the said details. (Appendix-I) (At a later stage the said details shall be made available to the DLSA in an auto generated form by the competent authorities).
  - IV. To inform every prisoner of their right to legal aid to file a bail at different stages/proposal timeline/trigger events (as discussed earlier in Paras 111,112,113,114).
  - V. To provide legal aid to every eligible prisoner at different stages/trigger events in the proposed time lines (as discussed in Paras 111,112,113,114) to file the bail application before the competent court.
  - VI. To ensure relevant documents and informations and other requisite assistance are provided to legal aid counsels and assist in any other manner to facilitate the filing of the bail application.
  - VII. To update the said prisoners on their status of the bail applications.
  - VIII. To constantly oversee diligent prosecution and steps taken by the legal aid counsel to ensure an early hearing of the bail application so filed and keep a record of the same.
  - IX. To ensure proper coordination with the learned trial courts, HCLSC and District Jail Authorities.

- X. To strictly comply with the directions issued in **Anil Gaur (supra)** in the case of prisoners whose cases are pending in other district and in this case.
- XI. To take any other step or measure to realize the rights of prisoners to legal aid and to seek bail respectively and to implement this judgement and the judgment in **Anil Gaur (Supra)**.

## <u>ANNEXURE – 5</u>

## C. Duties of Secretary, High Court Legal Services Committee:

- 121. In wake of the preceding discussion the duties of the Secretary, High Court Legal Services Committee are summed up as follows:
  - I. Secretary, High Court Legal Services Committee shall ensure proper coordination with the District Legal Services Authority and jail authorities to comply with the directions in **Anil Gaur (supra)** as well as this case.
  - II. To facilitate filing of the bail application and to ensure that the bail applications filed through legal aid counsels before the High Court are diligently prosecuted.
  - III. To provide necessary support (if needed) to all DLSAs to gather the details appended as Appendix-I.
  - IV. To take any other step or measure as deemed fit to implement the judgement of this Court in **Anil Gaur (supra)** as well as this case.

#### ANNEXURE – 6

#### D. Duties of Secretary, State Legal Services Authority

- 122. In wake of the preceding discussion the duties of the Secretary, State Legal Services Authority are summed up as follows:
  - A. To take steps as deemed fit to implement the directions of this Court in **Anil Gaur (supra)** and this case.

#### E. Duties of District Judges/Sessions judges:

- 123. In wake of the preceding discussion the duties of the District Judges/Sessions judges are summed up as follows:
  - I. Every learned Sessions Judge/District Judge shall regularly supervise the implementation of the directions of this Court in **Anil Gaur (supra)** and this judgement as well and constantly alert the respective learned magistrates, learned trial judges, DLSAs and jail authorities to their

mandatory duties as outlined in this judgement and **Anil Gaur** (**supra**) and hold them to account if required.

II. In every district the District Judge shall support and guide the DLSA to gather the aforesaid details depicted in Appendix I from avoidable legal sources. All authorities shall abide by the directions of the learned District Judge in this regard. Local innovations at the district level will play a prominent role in collecting the said information (Appendix I) in a quick time frame66. It is open to the learned Sessions Judge/District Judge to look into the feasibility of taking the assistance of para legal volunteers and law students to achieve this task.

III. To take status reports from DLSA, magistrates, trial judges at least once in three months

IV. Every learned Sessions Judges/District Judges shall take steps to ensure coordination between trial courts, DLSA, Secretary SLSA, jail authorities, police authorities, district administration, Secretary HCLSC and High Court Registry for effective implementation of this judgment.

V. It is open to every learned District Judge/Sessions Judge to devise or evolve procedures and take any other steps to support effective implementation of the directions of this Court in **Anil Gaur (supra)** and this judgment in letter and spirit.

VI. This procedure shall be followed till the High Court and the State Government are in a position to provide I.T. solutions/digital infrastructure providing auto-generated the information for readily accessing the said details (including in Appendix I).

#### ANNEXURE – 7

#### F. Duties of Jail Superintendent/Competent Jail Authority:

- 124. In wake of the preceding discussion the duties of the Jail Superintendent/competent jail authority in every district are summed up as follows:
  - I. Shall maintain records of each prisoner in the respective jails containing various details and information required for determining the need of the prisoner for legal aid and to file bail applications before the competent courts. A suggestive framework of such details is appended as Appendix-I.
  - II. To coordinate with District Legal Services Authorities and Secretary High Court Legal Services Committee.

III. To inform every prisoner of their right to legal aid to file a bail at different stages/proposal timeline/trigger events (as discussed earlier in Paras 111,112,113,114), and the Charter of Prisoners' Rights.

IV. To send requisition to DLSA and the Secretary, HCLSC to facilitate filing of the bail applications of needy/eligible prisoners at different stages /timelines/trigger events (discussed earlier in Paras 111,112,113,114) through the legal aid counsel.

V. To assist legal aid counsel in securing all relevant details and documents from lawful sources for filing the bail application like criminal history of the respective accused and the status of other criminal cases pending against them.

VI. To ensure that full and updated status of the bail applications of each prisoner as available on the High Court website is made accessible to them.

VII. To implement the mandate of Regulation 439(a) of the Jail Manual/Rule 412(a) of UP Jail Manual, 2022 read with Rule 434 of Jail Manual, 2022 in light of this judgement.

VIII. To make arrangements for video conferencing of prisoners and their counsels (particularly High Court counsels) in tandem with DLSA/Secretary HCLSC.

IX. To submit a bimonthly report regarding compliance of these directions to the Director General of Prisons. The Director General of Prisons shall prepare a detailed report on a quarterly basis depicting compliance of the directions issued in this judgment.

X. To take any other step or measure to realize the rights of prisoners to legal aid and to seek bail respectively and to implement this judgement.

#### ANNEXURE - 8

#### G. Duties of the State Government:

I. The State Government through Law Remembrancer (L.R.)/Principal Secretary (Law), Government of Uttar Pradesh Lucknow, Additional Chief Secretary (Home), Government of Uttar Pradesh Lucknow, Director General of Police, Government of UP, Director General (Prosecution), and Director General (Prisons), Government of Uttar Pradesh, Lucknow to take steps in coordination with each other to provide the details of every prisoner comprised in Appendix-I to this order and any other relevant information to the Jail Superintendent/competent jail authority in every district of the State to facilitate the process of grant of legal aid and to file bail application of prisoners from jail.

II. The State Government through Law Remembrancer (L.R.)/Principal Secretary (Law), Government of Uttar Pradesh Lucknow, Additional Chief Secretary (Home), Government of Uttar Pradesh, Director General of Police, Director General (Prosecution) and Director General (Prisons), Government of Uttar Pradesh make efforts to develop I.T. solutions to provide the relevant information (including details in Appendix-I) in an auto generated form to the Jail Superintendent/competent jail authorities of every district. The said IT solutions/platform may be shared with the DLSAs, magistrates and the trial courts.

III. The State Government shall ensure that the different departments of the State work in tandem to achieve the aforesaid task of realizing the fundamental rights of disadvantaged prisoners as discussed in this order.

IV. The State Government through Law Remembrancer (L.R.)/Principal Secretary (Law), Government of Uttar Pradesh, Lucknow, Additional Chief Secretary (Home), Government of Uttar Pradesh, Lucknow shall examine the quarterly reports submitted by the Director General (Prisons) as regards providing legal aid in terms of the directions in this judgement and to take appropriate action thereon.

V. The State Government through Law Remembrancer (L.R.)/Principal Secretary (Law), Government of Uttar Pradesh Lucknow, Additional Chief Secretary (Home), Government of Uttar Pradesh Lucknow, Director General of Police, Director General (Prosecution) and Director General (Prisons), Government of Uttar Pradesh, Lucknow take any other action to facilitate the implementation under Rule 412 of the Jail Manual, 2022 by Jail Superintendent in light of this judgement.

The implementation of this judgment as well as **Anil Gaur (supra)** has to be made by the respective magistrates, trial courts, and DLSAs and the Jail Superintendent/competent jail authority of the district, and Secretary HCLSC. However systemic support from the High Court, State Government will facilitate the realization of fundamental rights of prisoners and faithful implementation of the legislative mandate of Section 304 Cr.P.C., LSA Act, 1987, Rule 37 of General Rules (Criminal) and Regulation 439 (a) of the Jail Manual/ Rule 412(a) of UP Jail Manual, 2022 read with Rule 434 of Jail Manual, 2022 by the concerned courts and authorities respectively.

## H. Registrar General of High Court

Suggestive measures to the learned Registrar General of High Court for effective implementation of the rights of the accused persons as discussed in this judgment. (Note: These are only suggestive measures and not directions)

- I. To render all assistance to the learned magistrates/ trial courts/DLSAs for obtaining the current details as are currently available with the High Court in respect of every prisoner suggested in Appendix-I from the existing infrastructure and IT resources.
- II. To provide infrastructural support system including digital infrastructure and IT solutions to the learned magistrates, learned trial courts, DLSAs as may be required for effective implementation of the directions in this judgement and in order to realize the fundamental rights of the prisoners to legal aid for seeking bail from the competent court.
- III. The capacity of the magistrate, trial courts and the DLSAs to provide legal aid to prisoners will be greatly enhanced if relevant details (including those suggested in Appendix-I) are made available to them in an autogenerated form. Steps may be taken to achieve this goal.
- IV. To establish necessary coordination with the State Government to implement the judgment including sharing of relevant information on existing IT Platforms being administered by the State pillars/verticals.
- V. The Registrar General may implement the above directions only if necessary permissions/directions on the administrative side are forthcoming.

## Appendix-I

# I. Date of Imprisonment

# II. Type of warrant of commitment with dates

- (i) Custody warrant
- (ii) Sentence warrant
- (iii) Production warran
- III. Time frame triggers suggested in the judgment: Specific dates in the facts of the case and action taken thereon. (To be filled by the trial court, DLSA, Jail Superintendent respectively and independently). Systems to alert the stakeholders to the appointed dates may be built into the system.

#### IV. Bail before trial court

- (a) Date of filing and details
- (b) Status -Pending/Decided
- (c) Date of bail rejection by the trial court

# V. Bail before the High Court

- (a) Date of filing and details
- (b) Status pending/Decided
- (c) Past dates of listings of bail application
- (d) Likely dates of listing of bail application
- (e) Ordersheet of bail application

## VI. Subsequent bails before the High Court

- (I) Date of rejection of earlier bail applications by High Court
- (II) Copy of the bail rejection order
- (III) Court in which the subsequent bail application has been filed
- (IV) Date of filing of subsequent hail applications
- (V) Past dates of listing of bail application
- (VI) Likely date of listing of bail application
- (VII) Ordersheet of the bail application

#### VII. Criminal history of accused with status of bails and the cases

#### VIII Details of Counsels

- (I) Name -
- (II) Enrollment Number of UP Bar Council -
- (III) Enrollment Number of Bar Association (High Court/District Court) –
- (IV) Mobile No. -
- (V) Address
- (VI) E-mail id -