Minutes of Meeting dated 20.06.2020 At 12:30 PM through Video Conferencing (Cisco Webex) under the Chairpersonship of Hon'ble Ms.Justice Hima Kohli, Judge, High Court of Delhi & Executive Chairperson, Delhi State Legal Services Authority

The Meeting was attended by following Officers / Members of High Powered Committee through Video Conferencing:

1. Shri Azimul Haque, Special Secretary (Home) for Principal Secretary(Home)/Additional Chief Secretary, Govt. of NCT of Delhi
…. **Member**
2. Sh. Sandeep Goel, Director General (Prisons), Delhi …... **Member**
3. Sh. Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLSA).

Agenda: Effective implementation of the directions issued by Hon'ble Supreme Court of India in Suo Motu Petition (Civil) No. 1/2020 – In Re: Contagion of COVID-19 vide its orders dated 23.03.2020 and 13.04.2020

ITEM NO.1:- FOLLOW UP OF RESOLUTION ADOPTED EARLIER WITH RESPECT TO PREVENTION, SCREENING, IDENTIFICATION & TREATMENT OF PRISONERS AND JAIL STAFF

Chair feeling concerned after having learnt about the latest position of COVID-19 Positive Cases of Jail inmates and Jail Staff from letter dated 18.06.2020 of D.G.(Prisons), had asked about the steps taken by:

(a) Jail Administration to tackle the situation and arrest the infection from escalating in the Jail premises;

(b) D.G.(Prisons) and Jail Administration with respect to compliance of guidelines, instructions and resolutions passed by the Committee in its earlier meetings;

Sh. Sandeep Goel, DG (Prisons) informed the Chair that the jail administration has been scrupulously following and complying with the **guidelines, instructions and resolutions** passed by this Committee vide its earlier meetings, as a result of which they were in a position to **prevent the spread** of **COVID-19 (Novel Corona Virus)** inside the jail premises till middle of May 2020.

He further informed that owing to the spread of this virus in Delhi NCR and despite their best efforts as well as multipronged approach to prevent the eruption of **COVID-19 (Novel Corona Virus),** the same did enter the jail premises. D.G. (Prisons) informed the committee that till 20.06.2020, **20 Jail Inmates**, besides 36 **Prison Staff** were found COVID-19 Positive.

On being asked D.G. (Prisons) informed that out of 20 Jail inmates who were found Covid-19 Positive, 16 have recovered after they were separately quarantined in jail premises. He further informed that 3 inmates required hospitalization accordingly, 2 of them were admitted in LNJP Hospital and 1 in AIIMS, where they are recuperating.

D.G. (Prisons) further informed that 1 jail inmate, 'K', aged 62 years who being convict was serving his sentence in jail number 14, Mandoli. D.G. (Prisons) informed that on 15.06.2020, the said inmate was found dead while asleep and accordingly inquest proceedings were conducted. D.G.(Prisons) further informed that Covid-19 test on his mortal remains was conducted which reported Positive on 19.06.2020.

On enquiry, by the Chair, D.G.(Prisons) informed that the said 'K' was sharing his barrack with 28 other inmates, all of whom as of now are in good health. Committee **resolved and directed** D.G.(Prisons) to get the Covid-19 test of these 28 inmates conducted and as per medical need and advice, they be separately quarantined. D.G. (Prisons) **assured** the Committee to get the Covid tests of these 28 inmates done today itself or latest by tomorrow.

Committee has resolved that extra precautions with respect to inmates who are more than **55 years of age** have to be taken, so that they are not immuno-compromised. D.G. (Prisons) has ensured the Committee to do the needful.

D.G(Prisons) had further informed that till date 36 Jail Staff have been found Covid Positive. He informed that immediately on getting their reports, they were relieved from their respective duties and were asked to remain home-quarantined, as all of them were 'asymptomatic'. D.G.(Prisons) further informed that contact tracing was done and all those who came in contact with these Jail Staff were medically screened and tested. D.G.(Prisons) further informed that out of the 36 Jail Staff who were found

Positive, 7 have already been recovered and have now tested **'Negative'**. He informed that only 2 of those Jail Staff required hospitalization, 2 are in institutional quarantine facility whereas the remaining 25 are home-quarantined.

The Members of the Committee deliberated upon the possible steps which can be taken to prevent the spread of **COVID-19 (Novel Corona Virus)** in jail premises. It is considered that **COVID-19 (Novel Corona Virus)** can enter the jail premises only through the new entrants or through Jail Staff, Paramilitary Staff, Medical Staff and other persons entering the Jail premises for delivery of ration and other essential items. It is, therefore, necessary that new entrants in terms of the resolution adopted in the earlier meeting should be kept in **Isolation Wards/Cells** so as to prevent their **intermingling** with other inmates who are already inside the jail. Requisite steps are also required to be taken so as to ensure that Jail Staff, Medical Staff, Maintenance Staff and other persons entering the premises for delivery of essentials, may not come in direct contact with the inmates inside the Jail premises.

In the earlier meeting, it was informed to the Committee by DG (Prisons) regarding creation of **Isolation Wards** in Jail No.2 at Tihar and Jail No.13 at Mandoli for the new male entrants who are above 21 years of age and in Jail No.5 at Tihar for fresh inmates who are between 18-21 years of age, whereas **separate Isolation Wards** were created in Jail No.6 at Tihar for fresh women inmates.

Feeling concerned about the requirement of **'individual cells'** in prison to be used as "**isolation facility**", a resolution was adopted in the meeting dated 18.05.2020, whereby it was resolved that Jail No.15 Mandoli, having **248 individuals cells (with attached toilets)** shall be used for this facility. It was further resolved in the last meeting that out of 178 inmates, who were lodged in Jail No.15, 160 inmates be shifted to different jails in Tihar, leaving 18 inmates who were working as "**Sahayakas**" in the said jail itself.

D.G.(Prisons) informed that the said resolution has been **complied** with. He informed that having regard to the number of new entrants, the **individual cells** in Jail No.15 are now totally occupied. On

being asked by the Chair for exploring the possibility of using some other Jail, D.G.(Prisons) has informed that Jail No. 7 can be put to use as they have vacated a ward by adjusting the inmates in other wards of this Jail. He informed the Chair that separate **"isolation cells"** have been carved out from the vacated ward of Jail No. 7 for new inmates who are above 21 years of age, where they can be housed for initial period of 14 days.

An inquiry was made by the Chair regarding availability of some other space which can be converted into a **'temporary jail'**. D.G.(Prisons) has informed that in consultation with Delhi Police, they have identified Police Quarters Mandoli, which are situated adjacent to the Mandoli Jail and are presently being used as Government's Medical Quarantine Facility for Covid's Patients. He informed that he, along with Delhi Police have spoken to Govt. of NCT of Delhi for making the same available as the said Quarters can be converted into **'temporary jail'**. He informed that the said quarters comprises of 12 Towers having 30 flats each. D.G.(Prisons) further informed that these 360 Flats can be used for creating **isolation facility** for new entrants and for Covid Positive cases. He informed that these flats have the capacity to hold **1800 new inmates**.

Getting to know about the potential availability of these 360 Flats, Chair directed D.G (Prisons) as well as Special Secretary (Home) to make **concerted efforts** for getting the nod from Govt. of NCT of Delhi at the earliest, as the same would resolve the problem to a large extent.

On being asked by the Chair regarding the procedure adopted by the jail administration at the time of surrender of UTPs who visit the jail premises after expiry of interim bail granted to them, DG (Prisons) informed that such UTPs after completion of the period of their interim bail, at the time of their surrender and admission are treated as **new prisoners** and before lodging them, they shall be medically examined and kept in **Isolation Wards**.

It is made clear that fresh male inmates who are between 18 to 21 years of age and fresh women inmates shall continue to be kept in separate **Isolation Wards** at Jail No.5 and 6 respectively at Tihar, in terms of the earlier resolution.

Members of the Committee deliberated upon having the facility of '**Rapid Tests**', being conducted of all the new entrants in Jail before lodging them so as to protect the inmates who are already in Jail. Committee opined that '**Rapid Tests'** need to be conducted to tackle the situation and to prevent the inmates already in Jail from catching the infection. On directions of the Chair, D.G.(Prisons) readily agreed to check the ***feasibility*** of getting these '**Rapid Tests'** conducted as per the ICMR guidelines. It is **resolved** accordingly.

Chairperson made enquiries regarding availability of sufficient number of oximeters as well as essential medicines and equipments in Jail Hospital and Dispensaries for dealing with suspected cases of Covid-19. D.G. (Prisons) informed the Committee that there are two Jail Hospitals, one in Tihar and other in Mandoli Jail. He further informed that besides the two hospitals, they have separate Dispensaries in each Jail which are manned by sufficient number of Doctors and Para-medical staff. D.G. (Prisons) informed that they have sufficient availability and regular supply of essential medicines and equipments including oximeters and oxygen cylinders. ON the suggestion of Chairperson, it is **resolved** by the Committee, that Jail Hospitals must be equipped with **"Oxygen concentration machines"** and two such machines for each of the two Jail Hospitals must be procured at the earliest. D.G. (Prisons) **assured** to do the needful at the earliest.

DG (Prisons) further informed the Chair about the measures being taken by the Jail Staff, prisoners and other persons working in Jail so as to prevent the outbreak of **COVID-19 (Novel Corona Virus)**. He apprised the Chair that the principle of **social distancing** is being followed **scrupulously**. It has further been informed that common areas which are frequented by the inmates like Bathing area, Kitchen Area and Jail Telephone Area are being regularly cleaned and sanitized using appropriate disinfectant. DG (Prisons) further informed that necessary precautions i.e. Do's and Don'ts are being told to the inmates through **"Public Address System"** installed in Jails.

DG (Prisons) has informed that regular medical checkup of Jail Staff and inmates is being done through Jail doctors who have been advised to immediately inform the Jail Superintendent if they find or suspect any

symptoms of **COVID-19 (Novel Corona Virus)** in any inmate so that necessary steps in terms of the advisory/guidelines issued by ICMR and Ministry of Health, Government of India, can be taken. He further informed the Chair regarding the necessary steps being taken to practice, promote and demonstrate positive hygiene behaviour in Jails.

DG (Prisons) has submitted that besides the above they have adopted a multi-pronged approach to tackle the threat of **COVID-19 (Novel Corona Virus), i.e. :**

a. **Discontinuation of all visit** of outside agencies, including NGOs.
b. **Restriction of movements** of inmates outside the wards in Jails.
c. **Sanitization and disinfection** of the lodgment areas of the inmates and residential complexes of staff, on **regular basis**.
d. **All new inmates are pre-screened** at CPRO before lodging them in jail.
e. **Procurement and distribution** of Personal Protective Equipment (PPE) Kit, Mask, Gloves, Alcohol-based hand rubs and Soaps.
f. **Formation of Special Task Force (STF)** for **Contact Tracing** of suspected **COVID-19 (Novel Corona Virus)** cases in all Jails.
g. **Psychological screening** of newly admitted inmates to properly manage their mental health issues.
h. **Emphasis on Kitchen hygiene** and proper handling of vegetables and other essentials by personnel in kitchen/canteen.

DG (Prisons) has **assured** that the jail administration shall continue following these precautions and resolutions, so as to prevent the spread of **COVID-19 (Novel Corona Virus)** in the jail premises.

Committee is **satisfied** with the above steps being taken by D.G. (Prisons) and directed him to continue doing the same.

ITEM NO.2:- STEPS TAKEN TOWARDS SCREENING OF JAIL STAFF, PARA-MILITARY AND MEDICAL STAFF

Considering the possibility of **COVID-19 (Novel Corona Virus)** entering the jail premises through Jail Staff, para-military staff and medical staff besides others and through them, its outbreak amongst the inmates, is considered and deliberated upon by the Committee.

On being asked by the Chair regarding measures taken and adopted by jail administration, D.G. (Prisons) has informed that as per resolution of previous meeting, they have already adopted multi-pronged strategies to tackle the threat of the spread of **COVID-19 (Novel Corona Virus)** through Jail Staff and others to inmates. He informed that besides the above mentioned precautions, they are also:

a. **Conducting thermal screening and medical test** of the Jail Staff, para-military staff and medical staff before letting them enter the jail premises.
b. **Minimizing the contact** of inmates with outsiders by restricting movement of inmates outside the jails, as well as restricting movement of outsiders into the jails.
c. **Creating Medical Isolation Facility** for Jail Staff, security staff, Doctors and Technical Staff, showing symptoms of any disease.
d. **Spreading Continuous awareness** and briefing the staff as well, on basic hygiene and do's and don'ts to prevent the spread of the disease.
e. **Having Quarantine Facility** for Jail Staff, para-military, medical staff after their return from out station leave.
f. A **specific checklist** has been designed by the medical staff for COVID -19 screening of all the entrants including Jail Staff, maintenance staff, security, medical staff and others entering the Jails for delivery of any essentials.
g. **Wearing of the mask** has been made **mandatory** for all the Jail Staff, para-military staff, medical staff, maintenance staff and others entering the Jails for delivery of any essentials.
h. Maintenance staff as well as Jail Staff have been **provided with Personal Protective Equipment (PPE) kit** and they have been directed to wear the same during their respective duties.
i. All the staff has been cautioned to **maintain social distancing** while interacting with each other as well as with inmates.

Committee is **satisfied** with the above steps being taken by D.G. (Prisons). However, being alive to the possibility of spread of Covid-19 amongst the Jail Inmates through Jail Staff, Para-military staff and medical

staff, D.G.(Prisons) has been asked to start getting the "**Rapid Tests**" of all the **above referred Jail Staff** conducted according to the ICMR guidelines. This is to ensure that the suspected cases of Corona Positive Jail Staff could be prevented from getting in touch with the jail inmates. D.G. (Prisons) as well as Sh. Azimul Haque, Special Secretary (Home) **assured** "**Rapid Tests**" of Jail Staff, Para-military staff and medical staff shall be done right away.

It is **resolved** accordingly.

ITEM NO.3:- TAKING STOCK OF THE EFFECT OF CRITERION EARLIER ADOPTED TOWARDS DECONGESTION OF JAIL

Number of inmates released pursuant to the criteria earlier adopted in terms of the orders passed by the Division Bench of High Court of Delhi dated 23.03.2020 headed by Hon'ble Chairperson as well as on the basis of criteria adopted by High Powered Committee vide meeting dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 is put up before the Committee. Besides the number of inmates released pursuant to criteria adopted earlier, Committee has further perused the number of UTPs released on **Personal Bond**, on the basis of orders passed by Hon'ble High Court in **W.P. (Criminal) No.779/2020**.

The same was perused by the Committee which is as under:-

UTPs released on interim bail till 20.06.2020	**2651**
UTPs released pursuant to modification of bail orders by Hon'ble High Court in W.P.(Criminal) No.779 /2020	**310**
Convicts released on Emergency Parole till 20.06.2020	**1108**
Convicts released on remission of sentence	**60**
TOTAL UTPs / CONVICTS RELEASED ON INTERIM BAIL/ PAROLE/ REMISSION OF SENTENCE TILL 20.06.2020	**4129**

Chairperson **appreciated** the efforts put in towards the implementation of resolution adopted in earlier meetings, by Govt. of NCT of Delhi, Jail Administration and DSLSA. Chair further directed DG (Prisons) to take up the matter of other eligible convicts with Govt. of NCT of Delhi for **"Remission of Sentence".**

ITEM NO.4:- TO CONSIDER THE EXTENSION OF INTERIM BAIL GRANTED TO UTPS ON THE BASIS OF CRITERION LAID DOWN IN THE MEETINGS DATED 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 AND 18.05.2020

Kanwal Jeet Arora, Member Secretary, DSLSA has informed the Committee that this Committee in its meeting dated 05.05.2020 on the basis of letter dated 04.05.2020 of AIG (Prisons) and on proposal of DG (Prisons) had recommended to have the interim bail granted to UTPs on the basis of ***Writ Petition (Civil) 2945/2020,*** **titled** ***"Shobha Gupta & Ors. Vs. Union of India & Ors."*** as well as on the basis of criteria laid down by this committee in the meetings held prior thereto, extended for a further period of 45 days.

He informed the Committee that pursuant to the directions given to him in the meeting dated 05.05.2020, a **letter dated 06.05.2020** was written by him to the Ld. Registrar General, High Court of Delhi. He has further informed that pursuant to said letter, **Hon'ble the Chief Justice, High Court of Delhi** had **constituted a Special Bench** and the said Special Bench in ***Writ Petition (Civil) No.3080/2020,*** titled ***"Court on its own Motion Vs. Govt. of NCT of Delhi & Anr."*** vide its order dated **09.05.2020** had **extended** the **'interim bail'** so granted to the UTPs for a **further period of 45 days** from the date their earlier interim bail is expiring.

It has further been informed to the Committee that the period of extended interim bail as well as the period of interim bail granted to UTPs on the basis of criteria laid down by this Committee on 05.05.2020 and 18.05.2020, is going to **expire in last week of June, 2020.**

DG (Prisons) informed the Committee that situation of pandemic is still the same, as it was, when this High Powered Committee was constituted on directions of Hon'ble Supreme Court of India, therefore, it would be a **dangerous proposition,** if those UTPs who were granted "interim bail" for 45 days are taken back after their surrender.

DG (Prisons) proposed that in view thereof the "interim bail" of the UTPs needs to be extended. A letter dated **13.06.2020** written by DG (Prisons) to this effect is also brought to the notice of Committee.

Kanwal Jeet Arora, Member Secretary, DSLSA further apprised the Committee that **Special Bench** so constituted by Hon'ble the Chief Justice, which had earlier extended the interim bail vide order dated **09.05.2020** has **listed** the said matter on **22.06.2020**.

The Committee deliberated and further considered that it may not be possible at this juncture to predict definite cutoff date for resumption of normal functioning of the Court system. In view of the fact that, there is no certainty when the threat of pandemic shall be over and requirement of **"social distancing"** no longer necessary, the Committee is of the opinion that the "interim bail" so granted to such UTPs needs to be extended for a further period of 45 days from the date their respective interim bail is expiring.

The Committee is of the opinion that in this regard, a judicial order would be required from Hon'ble High Court of Delhi and **recommends** accordingly.

Member Secretary, DSLSA is directed to place these **recommendations** of the Committee by forwarding a copy of these minutes to Ld. Registrar General High Court of Delhi, for necessary action in this regard.

In the event of passing of any such order by Hon'ble High Court of Delhi on the basis of recommendations of this Committee, it is made clear that jail administration **shall inform** such UTPs of extension of their "interim bail" for a further period of 45 days from the date, the earlier period of interim bail is expiring, telephonically. DG (Prisons) assures that jail administration shall do the needful and shall inform such UTPs about the exact date of their surrender.

ITEM NO.5:- **FEEDBACK REGARDING EXTENSION OF "EMERGENCY PAROLE" GRANTED TO THE CONVICTS BY GOVT. OF NCT OF DELHI FOR A FURTHER PERIOD OF 8 WEEKS**

Kanwal Jeet Arora, Member Secretary, DSLSA has informed that on directions of Hon'ble Executive Chairperson, DSLSA, he had written a letter dated **08.05.2020** to the D.G. (Prisons) requesting him to send a letter/ representation to the Govt. of NCT of Delhi seeking amendment/ modification in the **Notification bearing No.F.18/191/2015/HG/1379/1392 dated 23.03.2020** vide which the provision of **"Emergency Parole"** was incorporated in **Rule 1212A,** so that the **"Emergency Parole"** of 8 weeks granted earlier can be further extended, which is the need of the hour.

DG (Prisons) informed the Committee that in terms of the said letter, so received from Member Secretary, DSLSA, they had written to the Govt. of NCT of Delhi vide letter dated **11.05.2020** for doing the needful.

It is reported by Shri Azimul Haque, Special Secretary (Home), Govt. of NCT of Delhi that the necessary modification in the Notification has been made by Govt. of NCT of Delhi vide **Notification bearing No.F.18/191/2015-HG/1649-62 dated 20.05.2020** whereby it has been notified that, " … *in order to secure the interest of inmates the prison administration and the society at large, the Government may grant up to eight weeks parole in one spell in addition to the regular parole as provided in these Rules. Further, the number of spells may be increased if emergent situation so warrant*".

Shri Azimul Haque, Special Secretary (Home), Govt. of NCT of Delhi has further informed the Chair that on the basis of this notification, ***Hon'ble Minister (Home) Govt. of NCT of Delhi directed to extend the emergency parole for a period of another eight weeks*** to all such convicts who were earlier released on emergency parole on or before **30.04.2020**. An order to this effect was issued by Deputy Secretary (Home), Govt. of NCT of Delhi **dated 22.05.2020** .

The Committee is **satisfied** with this **outcome** on the basis of its resolution dated 18.05.2020.

ITEM NO.6:- DETERMINING FRESH CATEGORY OF PRISONERS WHO CAN BE RELEASED ON INTERIM BAIL

Members of the Committee have taken into consideration that on the basis of the criteria adopted earlier, as on date about **4129** inmates/ convicts/UTPs have been released on **parole/interim bail etc**.

Kanwal Jeet Arora, Member Secretary, DSLSA has informed the Committee about the letter/representation dated **13.06.2020** wherein DG (Prisons) has submitted about the latest position of **COVID-19 (Novel Corona Virus)** pandemic in Delhi Prisons**.** He further stated that despite effective steps already taken towards decongestion of Jails, Delhi still has prison population of **13677** as on **19.06.2020** against the combined holding capacity of **10026** of **16 Jails of Delhi**.

In view of this situation vide his letter dated 13.06.2020, DG (Prisons) has requested that the criteria adopted earlier **needs to be relaxed** so as to further decongest the jails as still the present occupancy of the Jail exceeds the optimum capacity of the Jail.

In view of the prevailing situation and to prevent the spread of **COVID-19 (Novel Corona Virus)** and to ensure social distancing amongst prisoners, the Committee is of the opinion that the criteria needs to be **further relaxed** to give effect to directions of Hon'ble Supreme Court of India. On directions of Hon'ble Chairpersons, DG (Prisons) was requested to furnish the information, for the **impact analysis** *qua* the proposed relaxed criteria of UTPs. The same is accordingly submitted.

The Members of the Committee discussed the report submitted by DG (Prisons) vide his letter dated **13.06.2020** and **resolved** that prisoners falling in following criteria may now be considered for grant of interim bail for **45 days** in view of the circumstances in which we are in, preferably on **'Personal Bond'** :

*(i) Under trial prisoners (UTPs)(who are related as spouse of the deceased) facing trial for a case under **Section 498A and 304B IPC** and are **in jail for more than two years** with no involvement in **any other case**;*

*(ii) Under trial prisoners (UTPs) (who are related as father-in-law, mother-in-law, brothers-in-law, sisters-in-law of the deceased) facing trial for offence **under Section 498A and 304B IPC** and are **in jail for more than one year** with no involvement in **any other case**;*

It has further been **resolved** that following category of UTPs, even if falling in the above criterion or the criteria adopted in the earlier Meetings, **should not be** considered :-

(i) Those inmates who are undergoing trial for intermediary/ large quantity recovery under NDPS Act ;

(ii) Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;

(iii) Those under trial prisoners who are facing trial for offences under section 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, and 376E and Acid Attack;

(iv) Those UTPs who are foreign nationals ;

(v) Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) / PMLA, MCOCA ;

and

(vi) *Cases investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, Terror related Cases, Riot cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.*

Apart from the above six categories, Committee **resolved** to exclude those UTPs who after having availed the benefit of the criteria adopted hereinabove and the one adopted in the earlier meetings, had committed fresh crimes while on interim bail. Thus, the following seventh category is also included in the **exclusion clause.**

(vii) Those Under Trial Prisoners who are now in custody for an offence committed by him during the period of interim bail granted to him on the basis of criteria adopted by High Powered Committee in its earlier meetings;

DG (Prisons) has informed that on the basis of this new criterion, approximately **75 UTPs** would be benefited and their release would further **ease out** the Jail Population as the total number of inmates released on Parole and Interim Bail shall go up to 4200 approximately.

The UTPs falling in above relaxed criteria or the criteria adopted earlier may move their application for bail either through **their private counsel** or through **Panel Lawyers of DSLSA,** annexing the copy of custody warrants with the applications.

The applications for interim bail of UTPs falling in abovementioned categories for being considered, should have **a certificate of good conduct** during their respective custody period **from Jail Superintendent** for him to qualify in the abovementioned category.

Chairperson of the Committee has directed Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLSA) to request District Judges to apprise all the Judicial Officers that in the event of Court **being satisfied** that the under trial prisoners falling in the above mentioned criteria as well as the criteria adopted earlier, are to be released on bail, they may be released on **'Personal Bond',** to the satisfaction of Jail Superintendent so as to implement the **social distancing policy** of the Government.

It is clarified that the decision taken by this Committee for release of prisoners on "**interim bail**" vide criterion adopted in the meeting dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and the one adopted hereinabove today, shall in **no way** affect the rights of other UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. The concerned courts on filing of applications by such UTPs may consider the same on merits, in accordance with law.

ITEM NO.7:- **CONSIDERATION OF THE REPRESENTATIONS RECEIVED :**

(A) REPRESENTATION FILED ON BEHALF OF MALVINDER MOHAN SINGH SEEKING REVISION OF THE CRITERIA SET FORTH BY HIGH POWERED COMMITTEE THROUGH SHRI NEOMA VASUDEV AND SHRI ABHINAV MUKHERJEE, ADVOCATES

Member Secretary, DSLSA brought to the notice of the Committee a **representation dated 22.05.2020** whereby applicant have stated that the classification drawn by the High Powered Committee to exclude those persons who have been alleged to have committed economic crime from being released on interim bail, is neither reasonable nor just. It is stated that though Hon'ble Supreme Court vide orders dated 23.03.2020 had left it open to the Committee to devise a criteria. However, the same should have been based on reasonable differentia so as to lead to effective implementation of the order. The present representation has been filed by the Applicant pursuant to liberty granted to applicant by Hon'ble High Court in terms of order dated **15.05.2020** passed in ***WP (Crl) No. 814/2020,*** titled ***"Malvinder M. Singh v. State and Anr.",*** whereby the application for bail filed by the applicant was dismissed.

Members of the Committee perused the **representation** and have also gone through the orders dated **15.05.2020** passed by Hon'ble High Court whereby the **relief sought** by the applicant was **declined**. Members of the Committee have also gone through the documents annexed with the representation. It is apparent that the applicant is an Under Trial Prisoner,

lodged in Tihar Jail since 11.10.2019 and is accused in connection with the following cases:

a) FIR No. 50/2019 dated 27.03.2019 at P.S. EOW u/s 420/409/120B IPC culminating in Chargesheet on 6.1.2020

b) ECIR dated 10.1.2020 culminating in Chargesheet being ECIR No. 05/DLZO-II/2019 dated 24.7.2019 u/s. 3,4 PMLA read with Schedule I, read with 420/120B IPC

c) FIR No. 189/2019 dated 23.9.2019 at P.S. EOW u/s 409/120B culminating in Chargesheet on 23.3.2020

For effective considering the representation, Members of the Committee have considered it pertinent to refer to order dated 23.03.2020 of Hon'ble Supreme Court in ***Suo Motu Petition (Civil) No. 1/2020 – In Re: Contagion of COVID-19,*** vide which the High Powered Committee was constituted. The same reads as under:

> *"We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s),* ***to determine which class of prisoners*** *can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/ Union Territory could consider the release of prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.*
>
> *It is made clear that we leave it open for the High Powered Committee to determine the category or prisoners who should be released as aforesaid, depending upon the* ***nature*** *of offence, the number of years to which he or she has been sentenced or the* ***severity*** *of the offence with which he/she is charged with and is facing trial or* ***any other relevant factor****, which the Committee may consider appropriate."*
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> *(emphasis supplied)*

Hon'ble Supreme Court while disposing of the above mentioned petition vide its subsequent order dated 13.04.2020 clarified its earlier order as under:

> *"**We make it clear that we have not directed the States/Union Territories to compulsorily release the prisoners from their respective prisons**. The purpose of our aforesaid order was to ensure that States/Union Territories to assess the situation in their prisons having regard to the outbreak of the present pandemic in the country and release certain prisoners and for that purpose **to determine the category of prisoners** to be released.*
>
> *We make it clear that the aforesaid order is intended to be implemented fully in letter and spirit."*
>
> *(emphasis supplied)*

On bare perusal of the observations/directions given by the Hon'ble Supreme Court vide its order dated **23.03.2020**, it is apparent that the High Powered Committee so constituted was given **an absolute discretion to determine which class/category of the prisoners can be released on interim bail or parole** depending not only upon the severity of the offence, but also the **nature of offence** or any other **relevant factor**. It is further apparent on perusal of the subsequent order dated **13.04.2020** of Hon'ble Supreme Court whereby it was clarified that it has not directed the States/Union Territories to **compulsorily release** the prisoners from their respective prisons.

Thus, no prisoner in whatsoever **category/class** he falls and whatever nature of offence he is facing trial, can seek or claim to be released from prison **as a matter of right**.

This Committee while arriving at its decision in earlier meetings as well as in laying down the criteria today for release of the categories of prisoners on interim bail herein above, had taken into account the overall holding capacity of Delhi Prisons, existing strength on the dates of the Meetings and also the nature of offences for which the prisoners were lodged in jails. The Committee deliberated upon the categories/class of prisoners depending upon the nature of offence for which they were in jail for considering them for grant of interim bail/parole as the case may be. The committee had also considered to **exclude** certain nature of cases under the Special Acts like POCSO, MCOCA, PC Act, NDPS, PMLA, UAPA, Terror

related Cases, Rape Cases under Section 376 IPC besides those which have been investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, to be excluded from consideration zone for being released on **"interim bail"**. The said decision was taken only after considering the **relevant factors** and on the basis of **objective satisfaction** arrived at by the Committee. The criteria was adopted taking into consideration **class/category** of offences in mind and not having *prisoner-centric approach*. The object was only to release some of the prisoners and not all the prisoners on a reasonable classification arrived at on the basis of orders passed by Hon'ble Supreme Court, intending to implement the same **in letter and spirit**. The submissions made in the representation in hand, relates to the applicant only. However, the Committee as stated earlier, was not formed to look into merits or demerits of an individual case for being released on interim bail, rather it was formed to lay down a criteria taking into consideration a particular class and not any particular prisoner or inmate.

In view thereof, this Committee is of the opinion that the representation **is unmerited and the same is accordingly rejected**.

It is however made clear that this Committee for release of prisoners on "**interim bail**" vide criterion adopted in the meetings dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and the one adopted hereinabove today, shall in **no way** affect the rights of other UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. The concerned Courts on filing of applications by such UTPs may consider the same on merits, in accordance with law.

In view thereof, the applicant is at liberty to file bail application before the concerned Courts, which as and when filed, may be considered on merits, in accordance with law.

(B) REPRESENTATION FILED BY SHRI ALOK TRIPATHI, ADVOCATE FOR CONSIDERING THE CATEGORY OF CASES UNDER SECTION 304B IPC FOR GRANT OF INTERIM BAIL.

Member Secretary, DSLSA brought to the notice of the Committee a **representation dated 24.05.2020** sent by **Shri Alok Tripathi, Advocates** *for considering release of UTPs facing trial for a case under Section 304B IPC and are in jail for more than two years with no involvement in any other case.*

Considering the resolution adopted by this Committee hereinabove today, the present representation does not require any further deliberation, as the same has become **infructuous**.

(C) APPLICATION FOR GRANT OF PAROLE TO RAJINDER @ JINDER FILED BY THE APPLICANT THROUGH SH.SIDDHARTH YADAV, ADVOCATE

Member Secretary, DSLSA brought to the notice of the Committee **application dated 26.05.2020** filed by **Shri Siddharth Yadav, Advocates** on behalf of applicant *Rainder @ Jinder S/o Nathu Ram.*

Members of the Committee have perused the application/ representation and also perused the order dated **08.05.2020** passed by Hon'ble High Court in ***WP (Crl.) 795/2020,*** titled ***"Rajinder alias Jinder Vs. State (NCT of Delhi)"*** whereby the applicant had withdrawn his petition seeking parole with liberty to approach the **Competent Authority**.

Perusal of the application as well as order passed by Hon'ble High Court however reveals that liberty was granted to the applicant to approach the Competent Authority seeking parole. The present High Powered Committee was constituted by Hon'ble Supreme Court for decongestion of jails. This *Committee is not the Competent Authority* to decide the application for parole filed by the applicant.

Consequently, the present application is **disposed off** with directions to the petitioner **to approach the appropriate authority**.

(D) REPRESENTATION ON THE BEHALF OF UNDER TRIAL PRISONER JOYCE KAROUNG FACING CHARGES UNDER SECTION 21(C)/29 NDPS ACT SEEKING INTERIM BAIL.

Member Secretary, DSLSA brought to the notice of the Committee **representation** filed on behalf of applicant by **Shri Jubail Ahmad Khan, Advocate** sent through email dated 07.06.2020 .

Members of the Committee perused the representation filed by the applicant. Bare perusal of the observations/directions given by the Hon'ble Supreme Court vide its order dated **23.03.2020**, makes it apparent that the High Powered Committee so constituted was given **an absolute discretion to determine which class/category of the prisoners can be released on interim bail or parole** depending not only upon the severity of the offence, but also the **nature of offence** or any other **relevant factor**. It is further apparent on perusal of the subsequent order dated **13.04.2020** of Hon'ble Supreme Court whereby it was clarified that it has not directed the States/Union Territories to **compulsorily release** the prisoners from their respective prisons.

Thus, no prisoner in whatsoever **category/class** he falls and whatever nature of offence he is facing trial, can seek or claim to be released from prison **as a matter of right**.

This Committee while arriving at its decision in earlier meetings as well as in laying down the criteria today for release of the categories of prisoners on interim bail herein above, had taken into account the overall holding capacity of Delhi Prisons, existing strength on the dates of the Meetings and also the nature of offences for which the prisoners were lodged in jails. The Committee deliberated upon the categories/class of prisoners depending upon the nature of offence for which they were in jail for considering them for grant of interim bail/parole as the case may be. The committee had also considered to exclude certain nature of cases under the Special Acts like POCSO, MCOCA, PC Act, **NDPS**, PMLA, UAPA, Terror related Cases, Rape Cases under Section 376 IPC besides those which have been investigated by CBI/ED/NIA/Special Cell of Delhi Police, Crime Branch, SFIO, to be excluded from consideration zone for being released on **"interim bail"**. The said decision was taken only after considering the **relevant factors** and on the basis of **objective satisfaction** arrived at by the Committee. The criteria was adopted taking into consideration **class/category** of offences in mind and not having a particular *prisoner-centric approach*. The object was only to release some of the prisoners and not all the prisoners on a reasonable classification arrived at on the basis of orders passed by Hon'ble Supreme Court, intending to implement the same **in letter and spirit**.

In view thereof, this Committee is of the opinion that the representation **is unmerited and the same is accordingly rejected**.

It is however made clear that this Committee for release of prisoners on "**interim bail**" vide criterion adopted in the meetings dated 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and the one adopted hereinabove today, shall in **no way** affect the rights of other UTPs, who **do not** stand covered under these categories, from invoking the jurisdiction of concerned courts for grant of regular/interim bail. The concerned Courts on filing of applications by such UTPs may consider the same on merits, in accordance with law.

In view thereof, the applicant is at liberty to file bail application before the concerned Courts, which as and when filed, may be considered on merits, in accordance with law.

(E) REPRESENTATION DATED 12.06.2020 OF SHRI JAI A. DEHADRAI, ADVOCATE SEEKING DIRECTIONS TO JAIL AUTHORITIES TO CONDUCT COVID-19 TESTING OF ALL THE JAIL INMATES AS WELL AS JAIL STAFF

Members of the Committee considered the representation dated **12.06.2020** of the applicant addressed to the Chairperson of this Committee along with the supporting documents.

Members of the Committee though **appreciates** the concern of the applicant regarding **risk of outbreak of COVID-19 (Novel Corona Virus) infection** to the prison population because of the cloistered living conditions, however, Committee is of the opinion that it is neither ***feasible nor desirable*** at this stage to conduct **COVID-19 tests** of all inmates.

Committee is alive to the cause and have already taken requisite steps to prevent the spread of COVID-19 inside the Jail Premises. For the same, this Committee, vide resolutions adopted in its earlier meetings as well as one adopted hereinabove today, has directed DG (Prisons) for having ***regular medical checkup of the entire Jail Staff and inmates*** through Jail Doctors and to *strictly follow the advisory and guidelines issued by ICMR and Ministry of Health, Govt. of India, Health Department, Govt. of NCT of Delhi*. Further directions have been given to DG (Prisons) for creation of separate

Isolation Ward for the fresh inmates so that they be **not permitted** to **intermingle** with other inmates immediately on their arrival in the Jail.

Directions have also been given to Jail Staff to continue to conduct Thermal Screening and Medical Examination of any suspected case. Jail Administration is also conducting CT-PCR test in cases of any medical necessity.

In view thereof, as well as directions given to D.G.(Prisons) for getting **"Rapid Tests"** conducted of entire Jail Staff and also to see the ***feasibility of getting rapid-tests*** conducted the new entrants before their lodging in the Jail, in consonance with the ICMR Guidelines, **no further directions** are required to be passed on the present representation.

Before parting with this representation, Members of the Committee directed DG (Prisons) to take **extra precautions** with respect to inmates who are more than **55 years of age**, so that they are not **immuno-compromised**. DG (Prisons) is further directed that in case any suspected case comes to the notice of jail administration, then the ***contact tracing*** of all other inmate and Jail Staff be got done and if necessary **COVID-19** test of all such persons be conducted.

Representation dated **12.06.2020** of **Sh.Jai.A.Dehadrai, Advocate** stands disposed off accordingly.

Committee directs Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DSLSA) to inform the applicants who made the above representations with respect to the ***outcome thereof***.

It is **resolved** accordingly.

ITEM NO.8:- ANY OTHER ISSUE WITH PERMISSION OF THE CHAIR :

(A) MEETING OF SENTENCE REVIEW BOARD;

With permission of the Chair, DG (Prisons) has brought to the notice of the Committee, the orders dated 11.05.2020 passed by Hon'ble High Court in ***Writ Petition (Civil) No.3095/2020, titled "Amit Sahni Vs. The State (Govt. of NCT of Delhi) & Anr."***.

The Chairperson of the Committee has perused the orders passed by Hon'ble High Court dated **11.05.2020** and inquired from DG (Prisons) and Special Secretary (Home), Govt. of NCT of Delhi as to when the Meeting of **Sentence Review Board** was last conducted.

DG (Prisons) and Special Secretary (Home), Govt. of NCT of Delhi inform the Chair that the meeting of **Sentence Review Board** was held on **28.02.2020** whereafter a meeting was conducted on **11.05.2020** wherein case of some of the convicts was recommended for remission/sentence review.

Special Secretary (Home) Govt. of NCT of Delhi apprised the Chair that a meeting of "**Sentence Review Board**" was initially fixed for **09.06.2020** but could not be held and was rescheduled for **16.06.2020**.

Special Secretary (Home) Govt. of NCT of Delhi further informed that the meeting **could not take place** on **16.06.2020** as well, as Hon'ble Minister who had to Chair the meeting was hospitalized. Special Secretary (Home) apprised that the next meeting **shall take place at an early date**.

Chair directed DG (Prisons) as well as Special Secretary (Home), Govt. of NCT of Delhi to do the needful in this regard so that the cases of eligible convicts can be considered and if approved they can be released so as to decongest the jail.

(B) CLARIFICATION REGARDING MINUTES DATED 18.05.2020 QUA BAIL APPLICATION NO.291/2019 VIDE ORDERS DATED 17.06.2020 OF HON'BLE HIGH COURT;

With Permission of the Chair, D.G.(Prisons) has brought to the notice of the Committee orders dated 17.06.2020 passed by Hon'ble High Court in bail application no.***291/2019*** titled "***Satnam @ Raju vs. State***".

Members of the Committee have perused the said order passed by Hon'ble High Court with respect to the petitioner who is an under trial prisoner in FIR No.491/2017 under section 364A/506/342/323/34 IPC PS Paschim Vihar. A submission was raised on behalf of the petitioner that as High Powered Committee in meeting dated 18.05.2020 had resolved that UTPs facing trial under section 302 IPC and in Jail, for more than 2 years and not involved in any other case, may be released on "Interim Bail" therefore,

petitioner who is involved for offence under section 364A IPC entailing same punishment should also be released on Bail.

Members of the committee have perused the orders dated 17.06.2020 passed by Hon'ble High Court and as required, it is hereby clarified that while categorizing the ***class / category*** of offences, this Committee in its last meeting had intentionally omitted such like offences i.e. kidnapping for ransom and dacoity etc. The said **class/ category** of cases and sections of IPC therefore, have not been mentioned in the Minutes while laying down the criteria in the Meeting dated 18.05.2020.

Considering that the above referred Bail matter is listed before Hon'ble High Court on 30.06.2020, copy of these minutes may be placed before the Court through Ld. Registrar General.

Minutes of this Meeting **be implemented** by all concerned, in anticipation of the signatures of Members and Chairperson of the Committee.

Meeting ended with ***Vote of Thanks*** to the Chair.

Sandeep Goel **D.G (Prisons)**	**Azimul Haque,** **Special Secretary** **(Home), GNCTD**	**Kanwal Jeet Arora** **Member Secretary,** **DSLSA**

Hon'ble Ms. Justice Hima Kohli
Executive Chairperson DSLSA