2024 INSC 134

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

MA NO. 2034 OF 2022
IN
MA NO. 1849 OF 2021
IN
SPECIAL LEAVE PETITION (CRL.) NO. 5191 OF 2021

SATENDER KUMAR ANTIL … PETITIONER

VERSUS

CENTRAL BUREAU OF INVESTIGATION
AND ANR. … RESPONDENTS

WITH
MA No. 2035 of 2022 in SLP (Crl.) No.5191 of 2021

O R D E R

A. Heard learned Amicus, Mr. Siddharth Luthra, Senior Advocate Mr. Gaurav Agarwal for National Legal Services Authority (hereinafter referred to as "NALSA") and Additional Solicitor General of India, Ms. Aishwarya Bhati for the Union.

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Indu Marwaha
Date: 2024.02.16
16:30:51 IST
Reason:

B. We have perused the compliance affidavits filed by the respective States, Union Territories, Central Bureau of Investigation and NALSA on the directions issued by

this Court in the Judgment reported in Satender Kumar Antil v. Central Bureau of Investigation, (2022) 10 SCC 51 and the periodical orders passed therein. The learned Amicus having gone through these compliance affidavits in great detail has submitted a tabular chart and report dated 10.02.2024 indicating the directions that have been complied with by the parties present before us in terms of the judgment passed by this Court in Satender Kumar Antil (Supra) case.

C. For the comprehensive implementation of the directions in Satender Kumar Antil (Supra) case, the Amicus upon thorough study and verification of the details forcefully argues that certain directions fall within the domain of States/Union Territories/CBI, and High Courts and a few directions fall within the domain of both the States and the High Courts. Therefore, for effective monitoring by this Court it is completely desirable to combine the stake holders for reporting in a convenient way and are heard on a particular day.

D. The directions contained in para 100.2, 100.4, 100.7 of Satender Kumar Antil (Supra) and also the directions to public prosecutors in terms of order dated 21.03.2023 of this Court need top most attention and are required to be complied with by States, Union Territories and CBI as per the time schedule stipulated.

E. So far as the directions in para 100.2, 100.3, 100.5, 100.6, 100.7, 100.8, 100.9, 100.10, 100.11 of Satender Kumar Antil (Supra)**;** the direction dated 03.02.2023 for inclusion of the judgment in Siddharth v. State of UP, (2022) 1 SCC 676 and Satender Kumar Antil (Supra) in the curriculum of judicial academies and the direction dated 21.03.2023 for application of the judgment in Satender Kumar Antil (Supra) to Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC"), by and large apply to High Courts. From a larger perspective, direction in a few paragraphs is complied with by both i.e. the States/Union Territories and High Courts, in consultation with each other. The suggestion of Amicus informs that directions individually obligated are carried out independently and where mutual consultation in complying with the directions is necessary, such consultation is undertaken and responsibility is fixed on one authority for due compliance.

F. The report dated 10.02.2024 is accepted by us in its entirety and therefore, now we issue directions for due compliance by the States/Union Territories/CBI and High Courts. For the sake of convenience, the directions to various States and Union Territories are issued and we wish to verify and deal with the compliance in the manner suggested by this Order.

1. **State of Andhra Pradesh -Directions to be complied with:**

(i) In terms of the direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar v. State of Bihar and Anr., (2014) 8 SCC 273 has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the State to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in the case of Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in the case of Siddharth (Supra) and Satender Kumar Antil (Supra).

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

1.1 High Court of Andhra Pradesh -Directions to be complied with:

(i) In terms of directions contained in para 100.2, there is a contrary stand that conditions in relation to Sections 41 and 41-A of CrPC and Arnesh Kumar (Supra) have been complied with, yet bail has been granted, therefore the High Court is directed to inform about clear instances of the same.

(ii) In terms of directions contained in para 100.5, there is part non-compliance in so far as insistence of bail application under Section 88 of CrPC, therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of directions contained in para 100.7, details as to the number of Special Courts created and the need for creation of more Special Courts shall be provided.

(iv) In terms of directions contained in para 100.8 and 100.9, the High Court should inform this Court as to the steps taken for a list of identified prisoners who are unable to comply with bail conditions and why sureties are not being produced in many cases though bail stands granted, and what steps have been taken to alleviate this situation.

(v) In terms of directions contained in para 100.11, there is no adequate compliance and complete information with respect to some Courts, therefore needful be done in this regard.

(vi) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(vii) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

2. Union Territory of Andaman and Nicobar Islands -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the Union Territory shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the Union Territory to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra)

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

2.1 High Court of Calcutta (Refer to Serial No. 36.1)

3. State of Arunachal Pradesh -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary action that have been taken against erring police officers. Also, in

terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the State to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

3.1 High Court of Gauhati (Refer to Serial No. 4.1)

4. State of Assam -Directions to be complied with:

(i) In terms of directions contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases

in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) In terms of direction contained in para 100.9, it has been disclosed that bail applications under Section 440 of CrPC have not been received in relation to prisoners, therefore needful be done.

(iv) Compliance with order dated 21.03.2023 passed by this Court:

(a) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To train and update the prosecutors on a periodical basis and provide details of the same.

4.1 High Court of Gauhati -Directions to be complied with:

(i) In terms of directions contained in para 100.2 and 100.3, there is a contrary stand that conditions in relation to Sections 41 and 41-A of CrPC and Arnesh Kumar have been complied with, yet bail has been granted, therefore the High Court is directed to inform about clear instances of the same. Specific emphasis shall be laid on the reports of district Barpeta, Biswanath and Dimahasao as per the affidavit filed.

(ii) In terms of directions contained in para 100.7, details as to the number of Special Courts created and the need for creation of more Special Courts shall be provided.

(iii) In terms of directions contained in para 100.8 and 100.9, the High Court should inform this Court as to the steps taken for a list of identified prisoners who are unable to comply with bail conditions and why sureties are not being produced in many cases though bail stands granted and what steps have been taken to alleviate this situation.

(iv) In terms of direction contained in para 100.9, it has been disclosed that bail applications under Section 440 of CrPC have not been received in relation to prisoners, therefore needful be done.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender

Kumar Antil (Supra) in the curriculum of judicial academy, because it seems that there is no amendment to the curriculum of the State Judicial Academy.

5. State of Bihar -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it appears that there is 1 vacancy out of 74 in Bihar Prohibition and Excise Courts and 3 out of 14 in Schedule Castes and Scheduled Tribes Courts. However, no further information is provided for filling the said vacancies. Therefore, it is directed that the State shall provide details of the same and also about the Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) To train and update the prosecutors on a periodical basis and provide details of the same.

5.1 High Court of Patna -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) There is part compliance of the directions issued in para 100.3, 100.5, and 100.11 in districts such as Aurangabad, Aaria and Banka. Therefore, it is directed that a complete compliance shall be made in respect of these paragraphs and districts thereof.

(iii) So far as para 100.6 is concerned, it is reported that certain districts such as Bhagalpur, Munger, Patna, and Chappra are not in compliance. Therefore, it is directed that compliance for the same shall be made.

(iv) In terms of direction contained in para 100.7, it is directed that the High Court shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage. The High Court is also directed to inform about the steps being undertaken to fill the existing vacancies.

(v) As per the report, the directions contained in para 100.9 has been partly complied with. Therefore, it is directed that necessary steps shall be taken to ensure complete compliance of this direction.

(vi) The direction contained in para 100.10 is not complied with in District Bhagalpur, Munger, Gopalganj, Patna and Chappra. Therefore, necessary steps shall be taken to ensure complete compliance.

(vii) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(viii) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

6. Union Territory of Chandigarh -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases

in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the Union Territory shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the Union Territory to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

6.1 High Court of Punjab and Haryana (Refer to Serial No. 28.1)

7. State of Chhattisgarh -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) The affidavit filed by the State has a tabular chart in which data provided does not divulge into whether adherence to the directions is being done as most columns are filled as 'N/A'. We expect that detailed information will be filed in respect of all columns to appreciate the implementation of the directions.

(iv) Compliance with order dated 21.03.2023 passed by this Court:

(a) It appears from the affidavit filed by State that there is no clarity as to whether any training has been carried out or not. Therefore, details of the

same shall be provided and if no training programme has been conducted, then the same shall be done periodically.

7.1 High Court of Chhattisgarh -Directions to be complied with:

(i) In terms of the directions contained in para 100, it was directed that the compliance of these directions will be indicated by way of a detailed model tabular chart. However, that has not been done. Therefore, a detailed tabular chart shall be filed for those directions that fall within the domain of the High Court.

(ii) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

(iii) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(iv) In terms of direction contained in para 100.7, it is directed that the High Court shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage. The High Court is also directed to inform about the steps being undertaken to fill the existing vacancies.

8. Union Territory of Dadra and Nagar Haveli and Daman and Diu -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the Union Territory shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage. The Union Territory is also directed to inform about the steps being undertaken to fill the existing vacancies.

8.1 High Court of Bombay (Refer to Serial No. 21.1)

9. National Capital Territory of Delhi -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases

in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the Union Territory shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

9.1 High Court of Delhi -Directions to be complied with:

(i) In terms of directions contained in para 100.2 and 100.3, there is a contrary stand that conditions in relation to Sections 41 and 41-A of CrPC and Arnesh Kumar (Supra) have been complied with, yet bail has been granted. Therefore, the High Court is directed to inform about clear instances of the same.

(ii) In terms of directions contained in para 100.5, there is part compliance as per chart 'A', however certain Courts have not complied with the same. Therefore, it is directed that needful be done for complete compliance.

(iii) In terms of directions contained in para 100.6, there is part compliance in the districts as per the affidavit. Therefore, it is directed that needful be done for complete compliance.

(iv) In terms of directions contained in para 100.8 and 100.9, the High Court should inform this Court as to the steps taken for a list of identified prisoners who are unable to comply with bail conditions and what steps have been taken to alleviate this situation.

(v) In terms of direction contained in para 100.9, it has been disclosed that bail applications under Section 440 of CrPC have not been received in relation to prisoners. Therefore, needful be done.

(vi) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

10. State of Goa -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as

to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage. The State is also directed to inform about the steps being undertaken to fill the existing vacancies.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the State to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra)

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

10.1 High Court of Bombay (Refer to Serial No. 21.1)

11. State of Gujarat -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable

cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction in para 100.7, the State is directed to give details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) The State is directed to issue directions to the Prosecutors to place on record the correct legal position as per Siddharth (Supra) and Satender Kumar Antil vs. CBI (Supra).

(b) The State is directed to ensure the circulation of judgment of Siddharth (Supra) and Satender Kumar Antil (Supra) to Prosecutors, and

(c) The State is directed to train and update the Prosecutors on a periodical basis and provide details of the same.

11.1 High Court of Gujarat -Directions to be complied with:

(i) In terms of the directions issued in Para 100.2, bail is being granted for non-compliance of Sections 41 and 41-A of CrPC in districts such as Botad, Chhotadeupur, Junagadh and Surat. However, it has been stated that the directions of Sections 41 and 41-A of CrPC are being complied with. As both situations cannot co-exist, the High Court is directed to provide details pertaining to the compliance of the aforesaid directions. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of the directions issued in Paras 100.5 and 100.6, it is found that the same have been complied with only partially. The High Court is directed to ensure complete and uniform compliance of the same and furnish information in this regard.

(iii) In terms of the directions issued in Para 100.7, the High Court is directed to furnish information regarding its compliance.

(iv) In terms of the directions issued in Para 100.8, the High Court is directed to provide detailed information regarding the measures taken for those prisoners who have not been able to furnish sureties despite grant of bail.

(v) In terms of the directions issued in Para 100.10, the High Court is directed to ensure compliance of the same and furnish information.

(vi) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

(vii) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

12. State of Haryana -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in Para 100.7, the State is directed to give details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court;

(a) The State is directed to issue directions to Prosecutors to place on record the correct legal position as per Siddharth (Supra) and Satender Kumar Antil (Supra),

(b) The State is directed to ensure circulation of judgment in Siddharth (Supra) and Satender Kumar Antil (Supra) to Prosecutors, and

(c) The State is directed to train and update Prosecutors on a periodical basis and provide details of the same.

12.1 High Court of Punjab and Haryana (Refer to Serial No. 28.1)

13. State of Himachal Pradesh -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, the State is directed to give details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iii) Provide detailed Tabular chart (Part A) and steps taken to facilitate release of undertrial prisoners who continue to be in jail despite grant of bail.

13.1 High Court of Himachal Pradesh -Directions to be complied with:

(i) In terms of the directions issued under Para 100.7, the High Court is directed to furnish information regarding the requirement of Special Courts and the status of any proposals for the same.

(ii) In terms of directions issued under Para 100.8, the High Court is directed to ensure compliance and furnish information regarding steps taken to alleviate the conditions of the prisoners who have been identified as not being able to furnish sureties despite bail having been granted.

(iii) In terms of the directions issued under Para 100.9, the High Court is directed to ensure compliance as to the filing of bail applications on behalf of undertrial prisoners and to furnish information on the same.

(iv) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in curriculum of judicial academy.

14. Union Territory of Jammu and Kashmir -Directions to be complied with:

(i) In terms of direction contained in para 100.2, the Union Territory is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, the Union Territory is directed to give details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

14.1 High Court of Jammu and Kashmir and Ladakh -Directions to be complied with:

(i) Regarding the directions in Para 100.2, discrepancy is noted in districts such as Jammu, Ramban and Bandipora, wherein it is stated that there is compliance of Sections 41 and 41-A of CrPC, yet bail is being granted for non-compliance of the same which is contradictory to each other. The High Court is directed to ensure proper compliance and furnish information on the same.

(ii) With regards to the directions issued in para 100.5, discrepancy is noted in the affidavits dated 09.03.2023, which shows "yes" under the relevant column, while the affidavit dated 11.04.2023 shows "N/A". The High Court is directed to ensure compliance of the aforementioned directions and furnish information on the same.

(iii) In terms of directions issued in Para 100.7, the High Court is directed to ensure compliance and furnish information regarding the constitution of Special Courts in consultation with the Union Territory.

(iv) In terms of the directions issued in paras 100.8 and 100.9, the High Court should inform this Court as to whether any steps have been taken to identify prisoners who are unable to comply with bail conditions and

unable to furnish sureties in many cases, and what steps have been taken to alleviate this situation.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in curriculum of judicial academy.

(vi) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

15. State of Jharkhand -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, the State is directed to give details of the number of Special Courts Constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) The State is directed to issue directions to Prosecutors to place on record the correct legal position as per Siddharth (Supra) and Satender Kumar Antil (Supra),

(b) The State is directed to circulate the judgment in Siddharth (Supra) and Satender Kumar Antil (Supra) to Prosecutors.

(c) The State is directed to train and update the Prosecutors on a periodical basis and provide details of the same.

15.1 High Court of Jharkhand -Directions to be complied with:

(i) In terms of the directions issued in para 100.2, it is noted that in districts such as Godda and East Singhbhum, bail has been granted for non-compliance of Sections 41 and 41-A of CrPC, while it has been mentioned that the conditions as stipulated in the statutory provisions are being complied with which are contradictory to each other. The High Court is directed to furnish information regarding such discrepancy.

(ii) The directions in Para 100.5 have not been complied with in certain districts such as Bokaro, West Singhbhum, Godda, Chatra, Dumka. The High Court is directed to ensure compliance of the same and furnish information.

(iii) In terms of the directions issued in Para 100.7, the High Court is directed to ensure compliance and furnish information regarding the constitution of Special Courts and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iv) The High Court is directed to ensure compliance with the directions of para 100.8 and furnish information on the steps taken to alleviate the situations of prisoners who are not able to furnish sureties despite grant of bail.

(v) The High Court is directed to ensure compliance with the directions issued in Para 100.9, and furnish information on the same.

(vi) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

16. State of Karnataka -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary action that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information

has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of the direction in para 100.7, the State is directed to give the details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

16.1 High Court of Karnataka -Directions to be complied with:

(i) To ensure uniform compliance of the directions issued in para 100.5 and furnish information on the same.

(ii) To ensure compliance of the directions issued in para 100.7 and furnish information in consultation with the State Government regarding constitution of any Additional Special Courts, as well as the steps taken to resolve the vacancy in the Special Courts already constituted.

(iii) To ensure compliance with the directions issued in para 100.9 and to furnish information on the same.

(iv) To ensure uniform compliance of the directions issued in para 100.10 as it has been noted that only a few districts such as Chitradurg, Kolar and Raichur have complied with the same. The High Court is directed to ensure uniform compliance by all districts concerned and furnish information on the same.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

17. State of Kerala -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) The State is directed to give details of steps taken to ensure compliance of direction contained in Para 100.5 in the districts of Kollam, Pathanamthitta, Kalpetta and Kasargod, as it appears from the Additional compliance affidavit dated 14.04.2023 filed by the State that the aforementioned districts have not complied with the said direction.

(iii) In terms of the directions contained in para 100.7, the State is directed to give details of the number of Special Courts constituted and whether any

steps are underway for the creation of Additional Special Courts and at what stage and whether the vacancies that existed then have been filled now.

(iv) State is directed to give details of steps taken to ensure release of undertrial prisoners who are unable to comply with bail conditions.

(v) Compliance with order dated 21.03.2023 passed by this Court:

(a) The State is directed to provide training to Prosecutors on a periodical basis and provide details of the same.

17.1 <u>High Court of Kerala -Directions to be complied with:</u>

(i) Directions issued in para 100.5 are shown to be only partly complied with. The High Court is directed to ensure complete compliance and furnish information on the same.

(ii) In terms of direction contained in para 100.7, the High Court is directed to give details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iii) The High Court is directed to ensure compliance with the terms of para 100.8 and furnish information regarding the steps taken to alleviate the conditions of the prisoners.

(iv) To ensure compliance with the directions issued in para 100.9 and furnish information on the same.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(vi) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

18. Union Territory of Ladakh -Directions to be complied with:

(i) In terms of direction contained in para 100.2, the Union Territory is directed to provide the particulars of the First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary action that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, the Union Territory is directed to give details of the number of Special Courts constituted and

whether any steps are underway for creation of Additional Special Courts and at what stage.

18.1 High Court of Jammu and Kashmir and Ladakh (Refer to Serial No. 14.1)

19. Union Territory of Lakshadweep -Directions to be complied with:

(i) In terms of direction contained in para 100.2, the Union Territory is directed to provide the particulars of the First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, the Union Territory is directed to give details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) The Union Territory is directed to issue directions to Prosecutors to place on record the correct legal position as per Siddharth (Supra) and Satender Kumar Antil (Supra),

(b) The Union Territory is directed to circulate the judgment in Siddharth (Supra) and Satender Kumar Antil (Supra) to Prosecutors.

(c) The Union Territory is directed to train and update the Prosecutors on a periodical basis and provide details of the same.

19.1 High Court of Kerala (Refer to Serial No. 17.1)

20. State of Madhya Pradesh -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers.

(ii) In terms of the direction contained in para 100.7, the State is directed to give details of the number of Special Courts constituted and whether any steps are underway for creation of Additional Special Courts and at what stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) The State is directed to issue directions to Prosecutors to place on record the correct legal position as per Siddharth (Supra) and Satender Kumar Antil (Supra),

(b) The State is directed to ensure circulation of judgment in Siddharth (Supra) and Satender Kumar Antil (Supra) to Prosecutors,

(c) The State is directed to provide training and update Prosecutors on a periodical basis and provide details of the same

20.1 High Court of Madhya Pradesh -Directions to be complied with:

(i) In terms of the directions issued in para 100.2, it is noted that there is discrepancy insofar as bail is being granted on non-compliance of Sections 41 and 41-A, however, it is also stated that the statutory provisions are being complied with. Since the two situations cannot co-exist, the High Court is directed to ensure uniform compliance and furnish information on the same.

(ii) In terms of para 100.5, the High Court is directed to ensure uniform compliance and furnish information on the same

(iii) In terms of the direction contained in para 100.7, the State is directed to give details of the number of Special Courts constituted and whether any

steps are underway for creation of Additional Special Courts and at what stage.

(iv) To ensure compliance with the directions issued in para 100.8, 100.9 and 100.10 and furnish information regarding the same.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of the judicial academy.

(vi) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

21. State of Maharashtra -Directions to be complied with:

(i) From perusal of records, we find that the State of Maharashtra alone has not filed compliance affidavits as per the directions issued in Satender Kumar Antil (Supra) and subsequent orders passed by this Court. Therefore, the State is directed to file a detailed compliance affidavit as per Satender Kumar Antil (Supra) and subsequent orders passed by this court within a period of 8 weeks and the same shall also be circulated with learned amicus who upon perusal shall file a report within 2 weeks thereafter.

21.1 High Court of Bombay -Directions to be complied with:

(i) In terms of direction contained in para 100.2, as per report, compliance has been made. However, no details have been furnished on whether bail is being granted or not. Therefore, a detailed affidavit on this count shall be filed.

(ii) In terms of direction contained in para 100.3 and 100.5, there is part compliance of direction, since it is revealed that some District Courts such as Dhule, Nandurbar, Parbhani and Ratnagiri are asking for bail applications despite filing of chargesheet without arrest. Furthermore, in respect of South Goa and Dadra and Nagar Haveli there is non-compliance, therefore, it is directed that necessary steps shall be taken in respect of these districts and an affidavit indicating compliance shall be filed.

(iii) In terms of direction contained in para 100.7, the affidavit does not indicate anything on constitution of Special Courts and existing vacancies thereof except for a statement indicating details of Special Courts constituted under 7 different statutes.

(iv) In terms of direction contained in para 100.8, no information has been provided about identification of under trial prisoners and action taken in view of Section 440 of CrPC. Therefore, it is directed that immediate steps shall be taken in this regard.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(vi) To inform on whether the judgment in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC.

22. State of Manipur -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of whether any steps are underway for creation of Special Courts and Additional Special Courts and if so, then at what stage. Furthermore, details of assessment as to the High Court's request for 3 Special Courts shall also be provided.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) To train and update the prosecutors on a periodical basis and provide details of the same.

22.1 High Court of Manipur -Directions to be complied with:

(i) In terms of directions contained in para 100.2, it has come to our attention that there are certain Courts namely JMFC Imphal East, JMFC Jiribam and JMFC Thoubal where bail has been granted in non-compliance of Sections 41 & 41-A of CrPC. State affidavit is silent on the disciplinary or administrative action as indicated in the Standing Order. The same is mandated to be duly furnished.

(ii) In terms of directions contained in para 100.7, it has been stated that the High Court is pursuing with the State Government for constituting three Additional Special Courts. The latest status of the same needs to be duly updated.

(iii) In terms of directions contained in para 100.8 and 100.9, the High Court should inform this Court as to the steps taken for a list of identified prisoners who are unable to comply with bail conditions and unable to furnish sureties in many cases, though bail stands granted and what steps have been taken to alleviate this situation.

(iv) In terms of directions contained in para 100.11, there is no adequate compliance and incomplete information with respect to some of the Courts

has been provided. Therefore, needful be done in this regard. The relevant information should also be furnished.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(vi) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

23. State of Meghalaya -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

23.1 High Court of Meghalaya -Directions to be complied with:

(i) In terms of directions contained in para 100.7, it has come to our attention that the affidavit of the High Court is silent over the constitution of Special Courts in consultation with the State Government. The latest status of the same needs to be duly updated and furnished.

(ii) In terms of directions contained in para 100.8 and 100.9, the High Court has identified nearly 42 prisoners who are not able to furnish sureties despite bail. Detailed information and steps taken to alleviate the situation have however not been provided. Therefore, needful be done in this regard.

(iii) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(iv) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

24. State of Mizoram -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently to provide the details of necessary

action that has been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

24.1 High Court of Gauhati (Refer to Serial No: 4.1)

25. State of Nagaland -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a)To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra)

(b) To train and update the prosecutors on a periodical basis and provide details of the same.

25.1 High Court of Gauhati (Refer to Serial No: 4.1)

26. State of Odisha -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) To train and update the prosecutors on a periodical basis and provide details of the same.

26.1 High Court of Odisha -Directions to be complied with:

(i) In terms of directions contained in para 100.2, it has come to our attention that there is contradiction in the same inasmuch as if there is compliance of Arnesh Kumar (Supra) vis-à-vis compliance of Sections 41 and 41-A of CrPC., then bail ought not to have been granted due to non-compliance of the same. The position on the same is mandated to be clarified and duly furnished.

(ii) In terms of directions contained in para 100.5, there is partial non-compliance insofar as several districts are insisting for bail application under Section 88 of CrPC. Therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of directions contained in para 100.7, it has come to our attention that the affidavit of the High Court is silent over the constitution of Special Courts in consultation with the respective State Government. The latest status of the same needs to be duly updated and furnished.

(iv) In terms of directions contained in para 100.8 and 100.9, though the High Court has endeavoured to identify prisoners who are unable to comply with the bail conditions and is stated to have informed them about their rights under

Section 440 of CrPC, however, subsequently no bail applications were received under Section 440 of CrPC in most districts. Therefore, the High Court is required to inform on its compliance alone.

(v) In terms of directions contained in para 100.11, there is partial non-compliance in some districts as regular bail applications are not decided within two weeks. Therefore, needful be done in this regard and compliance of the same be ensured. The relevant information should also be furnished.

(vi) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(vii) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

27. Union Territory of Puducherry -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently to provide the details of necessary action that has been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as

to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the Union Territory shall provide details of Special Courts constituted and the necessary steps taken for the creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the Union Territory to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra)

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

27.1 High Court of Madras (Refer to Serial No: 31.1)

28. State of Punjab -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar

(Supra) has not been followed, and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

28.1 High Court of Punjab and Haryana -Directions to be complied with:

(i) In terms of the directions issued in Para 100.2 and 100.3, bail has been granted in non-compliance of Sections 41 and 41-A of CrPC, notably in districts such as Amritsar, Kapurthala and Mansa. On the basis of the compliance affidavit dated 10.11.2022, it is noted that bail has been granted for non-compliance even though it has been stated that there is compliance of the said directions. Since both situations cannot co-exist and are self-contradictory, the High Court is directed to report on the compliance of the aforementioned directions.

(ii) In terms of directions contained in para 100.5, there is partial non-compliance insofar as several districts are insisting for bail application under Section 88

of CrPC. Therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of directions contained in para 100.7, it has come to our attention that the affidavit of the High Court is silent over the constitution of Special Courts in consultation with the State Government. The latest status of the same needs to be duly updated and furnished.

(iv) In terms of directions contained in para 100.8, though the High Court has identified prisoners who are unable to furnish sureties despite bail, detailed information and steps taken to alleviate the situation has however not been provided. Therefore, needful be done in this regard.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

(vi) To furnish information on whether the directions in Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

29. State of Rajasthan -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41 and 41-A of CrPC has not been followed,

and consequently to provide the details of necessary actions that have been taken against erring police officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) To train and update the prosecutors on a periodical basis and provide details of the final outcome of the same.

29.1 High Court of Rajasthan -Directions to be complied with:

(i) In terms of directions contained in para 100.7, it has come to our attention that the affidavit of the High Court is silent over the constitution of Special Courts in consultation with the respective State Government. The latest status of the same needs to be duly updated and furnished.

(ii) In terms of directions contained in para 100.8 and 100.9, though the High Court has endeavoured to identify prisoners who are unable to comply with the bail conditions and is stated to have informed them about their rights under Section 440 of CrPC. However, subsequently no bail applications were received under Section 440 of CrPC in most districts. Therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the judicial academy curriculum.

(iv) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

30. State of Sikkim -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently also provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

30.1 High Court of Sikkim -Directions to be complied with:

(i) In terms of the directions issued in Para 100.2 and 100.3, bail has been granted in non-compliance of Sections 41 and 41-A of CrPC. On the basis of the compliance affidavit, it is noted that bail has been granted for non-compliance even though it has been stated that there is compliance of the said directions. Since both situations cannot co-exist and are self-contradictory, the High Court is directed to report on the compliance of the aforementioned directions.

(ii) In terms of directions contained in para 100.7, it has come to our attention that the affidavit of the High Court is silent over the constitution of Special Courts in consultation with the State Government. The latest status of the same needs to be duly updated and furnished.

(iii) In terms of directions contained in para 100.8 and 100.9, though the High Court has endeavoured to identify prisoners who are unable to comply with the bail conditions and is stated to have informed them about their rights under Section 440 of CrPC, however, subsequently no bail applications were received under Section 440 of CrPC in most districts. Therefore, the High Court is required to inform on its compliance alone.

(iv) In terms of directions contained in para 100.11, there is partial non-compliance in some districts as regular bail applications are not decided

within two weeks. Therefore, needful be done in this regard and compliance be ensured. It is also to be noted that most of the districts show the data as Nil and in some cases N/A against the Anticipatory Bail column. The relevant data needs to be furnished in detail.

31. State of Tamil Nadu -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed, and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To train and update the prosecutors on a periodical basis and provide details of the same.

31.1 High Court of Madras -Directions to be complied with:

(i) In terms of the directions issued in Para 100.2 and 100.3, bail has been granted in non-compliance of Sections 41 and 41-A of CrPC. On the basis of the compliance affidavit, it is noted that bail has been granted for non-compliance even though it has been stated that there is compliance of the said directions. Since both situations cannot co-exist and are self-contradictory, the High Court is directed to report on the compliance of the aforementioned directions.

(ii) In terms of directions contained in para 100.5, there is partial non-compliance insofar as some district courts are insisting for bail application under Section 88 of CrPC. Therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of directions contained in para 100.8 and 100.9, though the High Court has endeavoured to identify prisoners who are unable to comply with the bail conditions and is stated to have informed them about their rights under Section 440 of CrPC, however, subsequently no bail applications were

received under Section 440 of CrPC in most districts. Therefore, the High Court is required to inform on its compliance alone.

(iv) In terms of directions contained in para 100.11, there is partial non-compliance in some districts as regular bail applications are not decided within two weeks. Therefore, needful be done in this regard and compliance be ensured. The relevant information should also be furnished.

(v) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

32. State of Telangana -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

32.1 High Court of Telangana -Directions to be complied with:

(i) In terms of the directions issued in Para 100.2 and 100.3, bail has been granted in non-compliance of Sections 41 and 41-A of CrPC. On the basis of the compliance affidavit, it is noted that bail has been granted for non-compliance even though it has been stated that there is compliance of the said directions. Since both situations cannot co-exist and are self-contradictory, the High Court is directed to report on the compliance of the aforementioned directions.

(ii) In terms of directions contained in para 100.5, there is partial non-compliance insofar as some district courts are insisting for bail application under Section 88 of CrPC. Therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of directions contained in para 100.8 and 100.9, though the High Court has endeavoured to identify prisoners who are unable to comply with the bail conditions and is stated to have informed them about their rights under Section 440 of CrPC, however, subsequently no bail applications were received under Section 440 of CrPC in most districts. Therefore, the High Court is required to inform on its compliance alone.

(iv) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

33. State of Tripura -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as

to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the State to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra)

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

33.1 High Court of Tripura -Directions to be complied with:

(i) In terms of the directions issued in Para 100.2 and 100.3, bail has been granted in non-compliance of Sections 41 and 41-A of CrPC. On the basis of the compliance affidavit, it is noted that bail has been granted for non-compliance even though it has been stated that there is compliance of the said directions.

Since both situations cannot co-exist and are self-contradictory, the High Court is directed to report on the compliance of the aforementioned directions.

(ii) In terms of directions contained in para 100.5, there is non-compliance insofar as District courts are insisting for bail application under Section 88 of CrPC. Therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of directions contained in para 100.8 and 100.9, though the High Court has endeavoured to identify prisoners who are unable to comply with the bail conditions and is stated to have informed them about their rights under Section 440 of CrPC, however, subsequently no bail applications were received under Section 440 of CrPC in most districts. Therefore, the High Court is required to inform on its compliance alone.

(iv) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

(v) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

34.State of Uttarakhand -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

34.1 High Court of Uttarakhand -Directions to be complied with:

(i) In terms of the directions issued in Para 100.2 and 100.3, bail has been granted in non-compliance of Sections 41 and 41-A of CrPC. On the basis of the compliance affidavit, it is noted that bail has been granted for non-compliance even though it has been stated that there is compliance of the said directions. Since both situations cannot co-exist and are self-contradictory, the High

Court is directed to report on the compliance of the aforementioned directions.

(ii) In terms of directions contained in para 100.5, there is non-compliance insofar as some District courts are insisting for bail application under Section 88 of CrPC. Therefore, the High Court is required to inform on its compliance alone.

(iii) In terms of directions contained in para 100.8 and 100.9, though the High Court has endeavoured to identify prisoners who are unable to comply with the bail conditions and is stated to have informed them about their rights under Section 440 of CrPC, however, subsequently no bail applications were received under Section 440 of CrPC in most districts. Therefore, the High Court is required to inform on its compliance alone.

(iv) In terms of directions contained in para 100.11, there is partial non-compliance in some districts as regular bail applications are not decided within two weeks. Therefore, the needful be done in this regard and compliance be ensured. The relevant information should also be furnished.

(v) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

35. State of Uttar Pradesh -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

(iii) Compliance with order dated 21.03.2023 passed by this Court:

(a) In terms of the above referred order, we direct the State to ensure that the prosecutors are stating the correct position of law as per the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(b) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra).

(c) To train and update the prosecutors on a periodical basis and provide details of the same.

35.1 High Court of Allahabad -Directions to be complied with:

(i) In terms of the compliance of the directions issued in Para 100.2, the affidavit submitted highlights discrepancy, wherein information highlights compliance of Sections 41 and 41-A of CrPC, however, bail is being granted due to non-compliance of the same in certain districts such as Barabanki, Farrukhabad, Kansiram Nagar, Lakhimpur Kheri, and Moradabad. Since the two conditions cannot co-exist, the High Court is directed to ensure uniform compliance and furnish information on the same.

(ii) In terms of the directions issued in Para 100.5, the High Court is directed to ensure compliance to the effect that bail applications should not be insisted upon in applications under Sections 88, 170, 204 and 209 of CrPC as they are being insisted upon in certain districts such Agra, Chitrakoot and Sambhal, and to furnish information on the same.

(iii) In terms of the directions issued in Para 100.6, the High Court is directed to ensure compliance of the same and furnish information.

(iv) In terms of the directions issued in Para 100.7, the High Court is directed to ensure compliance with respect to consultation with the State Government for

constitution of Special Courts and filling vacancies in the existing District Courts, and to furnish information on the steps taken to comply with the same.

(v) In terms of the directions issued in Paras 100.8 and 100.9, it is noted that despite the identification of undertrial prisoners, sufficient steps have not been taken to ensure compliance by filing applications on their behalf under Section 440 of CrPC, in most districts. The High Court is directed to ensure compliance and furnish information on the same.

(vi) In terms of the directions issued in Para 100.11, the High Court is directed to furnish complete information regarding the compliance of the directions in all districts and to take steps for compliance.

(vii) The High Court is directed to identify judicial officers passing orders in non-conformity with the directions issued by this Court in Satender Kumar Antil (Supra), in terms of the order dated 02.05.2023 of this Court, and to provide details as to the actions taken against erring officers.

(viii) To furnish information on whether the directions of Satender Kumar Antil (Supra) is being applied to petitions under Section 438 of CrPC or not.

36. State of West Bengal -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases

in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order is being complied with by Investigating Officers.

(ii) In terms of direction contained in para 100.7, it is directed that the State shall provide details of Special Courts constituted and the necessary steps taken for creation of Additional Special Courts and its stage.

36.1 High Court of Calcutta -Directions to be complied with:

(i) In terms of the compliance of the directions issued in Para 100.2, the affidavit submitted highlights discrepancy in districts such as Alipore and Birbhum, wherein information highlights compliance of Sections 41 and 41-A of CrPC, however, bail is being granted due to non-compliance of the same in districts such as Alipore and Birbhum and the Union Territory of Andaman and Nicobar. Since the two conditions cannot co-exist, the High Court is directed to ensure uniform compliance and furnish information on the same.

(ii) In terms of the directions issued in para 100.5, some districts have not complied with the same as per the information provided. The High Court is

directed to ensure uniform compliance of the directions and furnish information on the same.

(iii) In terms of the directions issued in 100.7, the High Court is directed to take steps to ensure compliance of the same and furnish information.

(iv) The directions issued in Para 100.8 as well as 100.9 are noted to have been only partly complied with in most districts barring a few. The High Court is directed to take steps to ensure compliance of the directions issued in their entirety and furnish information on the same.

(v) The High Court is directed to provide complete information regarding the compliance of the directions issued in Para 100.11, and ensure compliance of the same.

(vi) In terms of direction contained in order dated 03.02.2023, the High Court should inform on compliance for inclusion of Siddharth (Supra) and Satender Kumar Antil (Supra) in the curriculum of judicial academy.

37. Union of India -Directions to be complied with:

(i) In terms of the direction contained in para 100.1, the Union is directed to inform the Court as to whether any Bail Law is in contemplation or under preparation.

(ii) To inform the Court as to whether any assessment has been done to ascertain the requirement of creating further Special Courts (CBI) in districts with high pendency of cases, with requisite data.

(iii) To inform the Court as to whether or not the investigative agencies (other than CBI) under its ambit are following the directions of this Court as laid down in Satender Kumar Antil (Supra).

38. Central Bureau of Investigation -Directions to be complied with:

(i) In terms of direction contained in para 100.2, it is directed to provide the particulars of First Information Reports of cognizable and non-bailable cases in which the mandate of Sections 41, 41-A of CrPC and Arnesh Kumar (Supra) has not been followed and consequently to provide the details of necessary actions that have been taken against erring police officers. Also, in terms of direction contained in para 100.2, information has to be provided as to whether the Standing Order/Criminal Manual is being complied with by Investigating Officers.

(ii) Compliance with order dated 21.03.2023 passed by this Court:

(a) To circulate the judgment passed by this Court in Siddharth (Supra) and Satender Kumar Antil (Supra)

(b) To train and update the prosecutors on a periodical basis and provide details of the same.

39. NALSA -Directions to be complied with:

(i) In terms of the order dated 02.05.2023, NALSA shall supply updated information with regard to para 100.8 and 100.10 in Satender Kumar Antil (Supra)

(ii) NALSA shall inform the follow-up action taken by NALSA and State Legal Services Authorities of the States and Union Territories as provided to NALSA by various authorities including the State governments and Union Territories.

(iii) In order to provide to this Court adequate updated information, we deem it appropriate to direct all the States and Union Territories to cooperate with NALSA.

G. In view of the above referred report and affidavits, we direct all the States, Union Territories, High Courts, Union of India, CBI and NALSA to file their updated compliance affidavits on the above referred aspects within a period of 8 weeks from today, and the learned Amicus upon perusal of the same shall file a report on these compliances in 2 weeks thereafter.

H. The matter will be listed on 07.05.2024, and we wish to take up this matter in a phased manner. The States and High Courts from serial numbers 1 to 10 will be taken up on 07.05.2024, and the monitoring as to due compliance by the remaining stake holders will be taken up subsequently in a staggered manner.

I. STANDARD OPERATING PROCEDURE (SOP)

(i) Ms. Aishwarya Bhati, learned Additional Solicitor General has invited our attention to a document titled as "Guidelines and standard operating procedure for implementation of the scheme for support to poor prisoners" and requested that the same may form part of record and the Order of this Court. The same shall be taken on record.

(ii) In furtherance of the subsequent orders passed by this Court on ancillary issues concerned with training public prosecutors and including judgments of this Court in the Curriculum of State Judicial Academies, we wish to further pass a direction on an SOP framed by Central Government. The SOP if put in place by the Central Government, will indeed alleviate the situation of under trial prisoners by way of establishment of a dedicated empowered committee and funds etc.

(iii) For the sake of convenience and for extending the benefit of this SOP to the under-trial prisoners, we wish to extract the SOP in its entirety in this

Order so that all concerned parties act in tandem to ensure due compliance of this SOP and the compliance thereof is incorporated in the next report.

"**Guidelines and Standard Operating Procedure for implementation of the Scheme for support to poor prisoners**

i) Funds to the States/UTs will be provided through the Central Nodal Agency (CNA). The National Crime Records Bureau has been designated as the CNA for this scheme.

ii) States/UTs will draw the requisite amount from the CNA on case-to-case basis and reimburse the same to the concerned competent authority (Court) for providing relief to the prisoner.

iii) An 'Empowered Committee' may be constituted in each District of the State/UT, comprising of i) District Collector (DC)/District Magistrate (DM), ii) Secretary, District Legal Services Authority, iii) Superintendent of Police, iv) Superintendent/ Dy. Supdt. of the concerned Prison and v) Judge incharge

of the concerned Prison, as nominee of the District Judge.

Note: This Empowered Committee will assess the requirement of financial support in each case for securing bail or for payment of fine, etc. and based on the decision taken, the DC/DM will draw money from the CNA account and take necessary action.

Note: The Committee may appoint a Nodal Officer and take assistance of any civil society representative/social worker/ District Probation Officer to assist them in processing cases of needy prisoners.

iv) An Oversight Committee may be constituted at the State Government level, comprising of i) Principal Secretary (Home/Jail), ii) Secretary (Law Deptt), iii) Secretary, State Legal Services Authority, iv) DG/IG (Prisons) and v) Registrar General of the High Court.

Note: The composition of the State level 'Empowered Committee' and 'Oversight Committee' are suggestive in nature. Prisons/persons detained therein being 'State-List" subject, it is proposed that the Committees may be constituted and notified by the concerned State Governments/UT Administrations.

Standard Operating Procedure

UNDERTRIAL PRISONERS

1. If the undertrial prisoner is not released from the jail within a period of 7 days of order of grant of bail, then the jail authority would inform Secretary, District Legal Services Authority (DLSA).

2. Secretary, DLSA would inquire and examine whether the undertrial prisoner is not in a position to furnish financial surety for securing bail in terms of the bail conditions.

For this, DLSA may take the assistance of Civil Society representatives, social workers/ NGOs,

District Probation officers or revenue officer. This exercise would be completed in a time bound manner within a period of 10 days.

3. Secretary, DLSA will place all such cases before the District Level Empowered Committee every 2-3 weeks.

4. After examination of such cases, if the Empowered Committee recommends that the identified poor prisoner be extended the benefit of financial benefit under 'Support to poor prisoners Scheme", then the requisite amount upto Rs. 40,000/- per case for one prisoner, can be drawn and made available to the Hon'ble Court by way of Fixed Deposit or any other method, which the District Committee feels appropriate.

5. This benefit will not be available to persons who are accused of offences under Prevention of Corruption Act, Prevention of Money Laundering Act, NDPS or Unlawful Activities Prevention Act or any other Act or provisions, as may be specified later.

6. If the prisoner is acquitted/convicted, then appropriate orders may be passed by the trial Court so that the money comes back to the Government's account as this is only for the purposes of securing bail unless the accused is entitled to the benefit of bail U/s. 389 (3) Cr.P.C. in which event the amount can be utilised for bail by Trial Court to enable the accused to approach the Appellate Court and also if the Appellate Court grants bail U/s. 389 (1) of Cr.P.C.

7. If the bail amount is higher than Rs. 40,000/-, Secretary, DLSA may exercise discretion to pay such amount and make a recommendation to the Empowered Committee. Secretary, DLSA may also engage with legal aid advocate with a plea to have the surety amount reduced. For any amount over and above Rs. 40,000/-, the proposal may be approved by the State level Oversight Committee.

CONVICTED PRISONERS:

1. If a convicted person is unable to get released from the jail on account of non- payment of fine amount, the Superintendent of the Jail would immediately inform Secretary, DLSA (Time bound manner: 7 days).

2. Secretary, DLSA would enquire into the financial condition of the prisoner with the help of District Social Worker, NGOs, District Probation Officer, Revenue Officer who would be mandated to cooperate with the Secretary, DLSA. (Time bound manner: 7 days)

3. The Empowered Committee will sanction the release of the fine amount upto Rs. 25,000/- to be deposited in the Court for securing the release of the prisoner. For any amount over and above Rs. 25,000/-, the proposal may be approved by the State level Oversight Committee."

J. EMAIL ID

At last, the learned Amicus has suggested for creating a dedicated email id for the purpose of these proceedings pending before us so that the reports are saved or exchanged simultaneously. Considering the convenience of all parties present here, we accept the suggestion so made and accordingly give liberty to the learned amicus to create the email id, and circulate the same to all the counsel/parties. Email id shall be used hereafter for serving and receiving affidavits / reports.

……..J
(M. M. SUNDRESH)

..……..J.
(S.V.N. BHATTI)

NEW DELHI;
FEBRUARY 13, 2024