

Minutes of the meeting of the High Powered Committee held by Circulation on 26.04.2021 in pursuance of the directions issued by Hon'ble Supreme Court of India vide Order dated 23.03.2020 in Writ Petition (c) No.01/2020 IN RE : CONTAGION OF COVID-19 VIRUS IN PRISONS.

1- This High Powered Committee (Herein referred as HPC) has been constituted by designation by the Government of Uttar Pradesh, Prison Administration and Reform Anubhag-3, No.631, JL/22-3-2020-800 (30)/2020, Lucknow: Dated: 26 March, 2020 in compliance of Order of the Hon'ble Supreme Court dated 23.03.2020 passed in Suo Moto Writ Petition (C) No.01/2020 IN RE : CONTAGION OF COVID-19 VIRUS IN PRISONS. The HPC as well as State Monitoring Committee have been revamped by fresh incumbents to the specified designation comprising the followings. The Meeting of HPC has been held on 26-04-2021 by circulation in the exigencies of exponential spread of Covid-19 Pandemic;

1. Hon'ble Mr. Justice Sanjay Yadav, The Executive Chairman, UP State Legal Services Authority/Patron-in Chief /the Acting Chief Justice of the Hon'ble Allahabad High Court.
2. Sri Awanish Kumar Awasthi, I.A.S., Additional Chief Secretary Home & Jails, Govt. of U.P.
3. Sri Anand Kumar, I.P.S., D.G. (Prison), Uttar Pradesh.

2- The last meeting of this HPC was held on 17-09-2020. The pandemic had thereafter abated to a large extent. The Hon'ble High Court of Judicature at Allahabad also finally disposed off the following PIL ;

PUBLIC INTEREST LITIGATION (PIL) No. - 564 of 2020
In Re Vs State of U.P.

in view of subsiding pandemic on 05-01-2021. The said PIL related to the extensions of interim bail/parole or other interim order during pandemic. However, Hon'ble High Court of Judicature at Allahabad has restored this above mentioned PIL vide it's order dated 24-04-2021 in the wake of recent upsurge of Pandemic Covid-19 & it's wide spread impact on public life and institutions.

3- The re-emergence of COVID-19 known as the "Second Wave of Covid-19" has been with unanticipated speed surpassing all the previous record of single day Covid-19 positive Cases in India. The Pandemic has pervasively disrupted the normal functioning of all the institutions including the Judiciary as well as the medical infrastructure. The Hon'ble Supreme Court called it "National health emergency situation" & took suo moto cognizance in Writ Petition (c) no.3/2021

In Re: Distribution of Essential Supplies and Services during Pandemic"

In the matter of the need for national plan to deal with the supply of medicine, oxygen and other issues relating to the present prevailing pandemic.

3:1: Hence, in the emerging exigencies occasioned by the resurgence of Covid-19 Pandemic with more severity, a revisit & reinforcement of earlier recommendations/directions has become imperative urgently and immediately to prevent, contain and treat the virus among the prison/remand home inmate, major / Juvenile/ female in compliance of the directions issued by Hon'ble Supreme Court Writ Petition (C) No.01/2020 IN RE : CONTAGION OF COVID-19 VIRUS IN PRISONS, *supra*.

4- The Chairman of the Bar Council of U.P, Shri Rohitashwa Kumar Agarwal in his letter No. 1807/21, Dated: 20th April 2021, has also echoed the same genuine sentiments and concerns to revisit the urgent need of the re-issuance of directions in respect to the interim bail/parole to jail /remand home inmates urgently and immediately in order to protect & safeguard the fundamental rights of the prisoners/ inmates etc.

5- The D.G. (Prison), Uttar Pradesh, Shri Anand Kumar has apprised the Committee that "COVID-19 Special Task Force" as constituted earlier has been re-activated in all Prisons of Uttar Pradesh comprising of Jail Superintendent, Jailor, Circle Officer/Deputy Jailor Medical Officer and one Member of Para Medical Staff. The Task Force has been directed to monitor the prevention of transmission of infection in Prisons.

The Committee is cognizant of the earlier report of the State Monitoring Committee (Here in referred as SMC) dated 03-04-2020 wherein many of the directions mentioned in this report had been reported as complied by the then SMC. However, it is a fact that considerable time has since elapsed & vicious re-cycle of Pandemic has changed the whole dynamics of Covid-19 protocol and safeguard co-system. Hence, instead of obtaining the present position of facts as reported by the then SMC, this HPC finds it expedient to revisit the directions then issued & reiterate as required some of those directions to save time in view of impending urgency occasioned by the exponential & unprecedented speed of the spread of the present Covid-19, pandemic in the state of U.P.

5:1: Therefore, following directions are hereby issued to the aforesaid Task Force & other concerned officials of the Government Departments for strict compliance and implementation to ensure effective implementation of the directives of the Hon'ble Supreme Court in the aforesaid Writ Petition (C) No.1/2020, *supra*:-

1. Maximum possible social distancing must be maintained amongst prisoners.
2. The Hon'ble High Court of Judicature at Allahabad has issued a Letter-1945/LXXXVII-CPC/e-COURTS/Allahabad/Dated: 22 April 2021 wherein restricted and regulated Court hearing in certain specified

Courts only has been envisaged with emphasise on hearing and remand of the inmates by virtual mode.

The DG prison, Sri Anand Kumar has emphasized that prisoner are still being required physically in large numbers by the Courts & that this whole process of producing Under Trial Prisoners (referred herein as UTP) physically in Courts is increasing the risk of transmission of Covid-19 virus in the secure environment of prisons through the contact of inmates as well as the official machinery involved/engaged therein in the said process.

The Committee is appreciative of the fact that several stake holders do involve in ensuring physical presence of prisoners in the Courts. Besides, the said process necessitates the ingress & egress of the inmates to & from secured place/precincts i.e. of Prisons/remand homes .Hence, a very high degree of probability of virus travelling into prisons sought to be secured from virus by these directions/strict regulations can readily be inferred. Therefore, the restrictions/ prohibition on physical presence of the UTP in Court during this pandemic are thereby necessitated.

2:1: Hence, it is hereby directed that Physical presence of UTP /Inmates before the Courts must be stopped forthwith till 30 May 2021 or further order whichever is earlier.

The Courts are advised to have recourse to Video Conferencing facilities as a substitution thereof except in rare cases where the particular Court in its judicial discretion finds the physical presence of the prisoner /inmate indispensable in interest of Justice & exigencies of particular case.

3. Transfer of prisoners from one prison to another must not be resorted to except for decongestion to ensure social distancing.
4. Medical assistance be ensured to ill prisoners with promptitude.
 - 4:1. There should be reasonable and responsible alacrity on the part of Jail administration in shifting sick prisoners to a nodal medical institution in case possibility of infection is apprehended or diagnosed.
5. Overcrowding in prisons is a matter of special concern in the context of COVID-19.

Hence, Jail / Administration /management to devise plan to avoid overcrowding of inmates while in campus or sleeping or eating. Prisons are advised to prepare block- wise time table or devise other mechanism as feasible relating to food and other services for prevention of overcrowding of prison inmates at one place at a particular time.

6- The Jail Administration/Management of Remand Homes shall ensure the following other measures to prevent the spread of Covid-19 Virus in prisons /Remand Homes;

6:1: The regular physical meetings with the prisoner/Inmates of visitors are stopped till 30 May 2021 or further order whichever is earlier.

6:2: The facility of Video Calling and/ or Telephone Calling as feasible shall be arranged with adequate publicity of such telephone numbers ./facilities & the said scheme be implemented fairly in a transparent manner for all the inmates. The record of the same be maintained.

6:2:1 Jail superintendent should also make arrangements for the meetings of the inmates with family members in extreme emergencies like Critical illness or other mishappenings or marriage of daughter etc. Innate human consideration should not be overlooked, instead informed discretion be exercised by Jail Superintendents in such situations.

6:3: There shall be suspension of cultural and all those other like group activities which envisage gathering that tend to endanger social distancing norm.

6:4: Health audit of Jails by the Health department be conducted and first such audit be done within ten days of the date of this order.

6:5: The Jail Superintendents shall also undertake following measures like;

- (a) Creation of isolation wards,
- (b) Quarantine of new prisoners including prisoners of foreign nationality prisoners for a specific period,
- (c) Preliminary examination of prisoner for Covid-19 ,entry points scanning by installation of digital thermometer or otherwise as feasible for the examination of staff, prisoners visitors and other of medical service providers &
- (d) Supply of masks and sanitizers to Jail Inmates and staff.
- (e) Sanitization of Jail / Remand homes premises regularly as per established norms/standard protocol applicable.

6:6:- The medical staff of Jails be imparted training for Covid-19 protocol, it's Prevention, Containment & Management by virtual mode within ten days of the date of this order.

6:7: Each Jail shall initiate campaign for awareness and training of inmates regarding Covid-19 protocol and precautions required to stop the transmission of Covid-19.

6:8: Each Jail shall develop a prison specific readiness and response plan in consultation with medical experts.

As referred in the aforesaid Writ Petition (C)No.1/2020, *supra*.“Interim guidance on Scaling-up COVID-19 Outbreak in Readiness and Response Operations in camps and camp like settings” jointly developed by the International Federation of Red Cross and Red Crescent (IFRC), International Organisation for Migration (IOM),

United Nations High Commissioner for Refugees (UNHCR) and World Health Organisation (WHO), published by Inter-Agency Standing Committee of United Nations on 17 March, 2020 may be taken into consideration for similar circumstances or development of such a plan.

6:8:1: Each Jail Superintendent while preparing aforesaid plan shall identify special groups of prisoners, which are more vulnerable such as old age inmates, prisoners with respiratory Diseases or suffering from critical illness etc. to infections for special focus.

7- The Committee deliberated upon the issue of class or nature of convicts to determine the issue of release of convict on Parole/ interim bail in context of the Maximum prescribed punishment for the offence, nature of offence, Punishment awarded by the Court , period already undergone in prison & Counter balancing of the interest of the society and the need to manage over-crowding of prisons in these times of Pandemic.

8- The Committee resolves that except in the Cases excluded in clause 10 herein under, the following category of convicted prisoners be forthwith considered for released on Parole for 60 days on furnishing Personal Bond with the undertaking written on the personal Bond itself that he/she shall surrender before the Prison Authority after expiry of the Parole period. :-

- Convicts already on Parole would get extended special Parole of another 60 days provided no adversity occurred during the present Parole.
- Convicts who have already availed 01 Parole peacefully and surrendered on time will be granted afresh one-time special parole for 60 days provided no adversity occurred during the previous Parole.
- Convicts who are not facing a sentence of more than 7 years shall be released on special Parole for 60 days provided no serious adversity exists in their Jail record during their stay in confinement / during the period of Parole.
- All those convicts who have been on Parole during this year 2020-2021 or within last five years & has eligibility for general Parole otherwise, they be considered leniently for 60 days Pandemic Parole to achieve objective of decongestion in Jails/ remand homes.
- Convicts whose matter of Parole are pending /under consideration with the State Authorities shall forthwith be considered within 60 days for Pandemic Parole expeditiously and decided within 7 days henceforth.

It is further directed that the Superintendent of Police and District Magistrate shall act pragmatically and with responsibility to assess the suitability for Pandemic parole.

- The DG prison shall collect the data of all those convicts who have completed their period of imprisonment yet still languishing in Jails in default of payment of fine occasioned by their inability to pay the fine imposed in the sentence & shall put up the said information/statement in the next ensuring meeting of the Committee, so that feasibility of payment from the SLSA fund or otherwise may be considered and explored by this HPC.

9- The following categories of prisoners/inmates shall also be entitled to Parole for a period of 60 days due to this Pandemic on conditions of Parole as specified unless their release in the recorded opinion of the State Government is detrimental to Public Peace, Safety & Security, and the interest of the administration of Justice ;

1. All male/female inmates above 65 years of age.
2. All female inmates above 50 years or above whose sibling/siblings are of the age of 6 years or below.
3. Pregnant Women Convicts.
4. All male or female inmates suffering from Cancer or like serious/Critical illness, however, on medical certification.
5. All male or female inmates suffering from serious life threaten Heart ailments (requiring bypass/valve replacement only on proper medical certification).

The Secretary, Home, Government Of U.P shall file compliance report as well as the statement of Cases with specified reasons to this HPC for re-evaluation/ re-consideration wherein the State Government has in its recorded opinion has held that the release of prisoners/inmates is detrimental to Public Peace, Safety, and Security, and interest of the administration of Justice.

10- The following categories/nature of offences /Cases are excluded from consideration for Pandemic Parole and interim Bail (except clause (a) for interim bail);

- (a) Persons convicted or undertrial for offences under 302 (Murder), 303, (Murder by life Convict) 364 (Kidnapping for ransom), 364 A, (Kidnapping or abduction in order to Murder) 304B (except women and persons above 60 years of age) or abetment thereof .
- (b) Persons convicted or undertrial for offences against state, Army, Navy and Air Force & Offences relating to coins Government Stamps under Chapter- VI ,VII & XII of the IPC or abetment thereof.
- (c) Persons convicted or Undertrial for offences of dacoity or extortion or attempt or abetment thereof.
- (d) Persons convicted or Undertrial for offences of Rape or attempt to Rape.

- (e) Persons convicted or Undertrial for offences under Gangster Act or Prevention of Money Laundering Act 2002 (PMLA) or U.P. Control of Organised Crimes Act 2017(UPCOCA) or other Terror or Organised Crime related offences.
- (f) Persons convicted or Undertrial for offences under POCSO (Protection of Children from Sexual Offences Act)
- (g) Persons convicted or UT who are foreign nationals & persons convicted/UT under Foreigners Acts 1946 .
- (h) Persons convicted or UT of Currency -Notes and Bank-Notes (Sections 489A to 489E of IPC).
- (i) Offences punishable under 326 A and 326B relating to throwing and causing grievous hurt by use of Acid etc.
- (j) Persons Convicted or Under trial whose release on parole or interim bail will be gravely detriment to the interest of society or the victim)
- (k) Persons Undertrial whose bail applications have been either rejected by the Hon'ble Supreme Court or High Court or pending thereat.

11- The Committee further resolves that following category of undertrial Prisoners /inmates (UTP) except the cases excluded under clause 10(b) to (k) mentioned herein before may be released on Interim Bail.

- Undertrial prisoners facing criminal cases in which maximum sentence is 07 years and presently confined in Jails may be released on Interim Bail on examination of cases on case to case basis for 60 days by the designated Sessions Judge or Magistrate or Court as the case may be, on furnishing Personal Bond with the undertaking written on the personal Bond itself that he/she shall surrender before the Court after expiry of the Interim Bail period. Other conditions may be imposed by the Court if it thinks fit, considering the circumstances of the case. No interim bail on this pandemic ground be rejected unless it is essential for protection of the interest of society/victim at large.
- The matter of grant of interim bail shall be considered and requisite order passed as per discretion by visiting the Jails, on alternate days, by the designated Sessions Judge or Magistrate or Court as the case may be, on the bail applications at the Jails itself and it shall be disposed off forthwith. For drafting bail applications, to be moved by undertrial prisoners, assistance and services of prisoner officers, Jails staff, Jail Para Legal Volunteers (PLVs) and Panel Lawyers empanelled with the District Legal Services Authority (DLSA) may be utilized. The Secretary, DLSA of concerned district shall ensure effective legal aid. For this purpose passes shall be issued to the Judges/Magistrates & Panel Lawyers etc by the District Judge/ or his authorized officials shall

be honoured during lock down period by the District /Police Administration.

- The District & Sessions Judge himself or through delegation under his order shall grant interim bail for a period not exceeding 45 days as per undermentioned SOP 2018 (Standard Operating Procedure) devised by NALSA. (National Legal Services Authority)

NALSA SOP- 2018 for UTP's :

- (a) UTP's (Under Trial Prisoner referred herein as UTP)/Convicts falling under /covered under section 436A Cr.PC.
- (b) UTP's released on bail by the Court but has not been able to furnish sureties.
- (c) UTP's accused of compoundable offences.
- (d) UTP's eligible under Section 436 of Cr.PC.
- (e) UTP's who may be covered under Section 3 of Probation of Offenders Act, namely accused of offence under Section 379, 380, 381, 404, 420 IPC or alleged to be an Offence not more than 2 years imprisonment.
- (f) UTP's become eligible to be released on bail u/s 167(2), (a) (i) & (ii) of the code read with Section 36 A of the Narcotic Drugs and psychotropic Substances Act 1985. (Where persons accused of Section 19 or Section 24 or Section 27 A or for Offences involving commercial quantity) and where investigation is not completed in 60/90/180 days;
- (g) UTP's who are imprisoned for offences which carry a maximum punishment of 2 years;
- (h) UTP's who are detained under Chapter VII, Cr.PC i.e. U/s.107, 108, 109 and 151 of Cr.PC;
- (i) UTP's who are sick or infirm and require specialized medical treatment;
- (j) UTP's women offenders;
- (k) UTP's who are first time offenders between the age of 19 & 21 years and in custody for offences punishable with less than 7 years of imprisonment and have suffered at least 1/4 of the maximum sentence possible;
- (l) UTP's who are of unsound mind and must be dealt with under Chapter XXV of the Code;
- (m) UTP's eligible of release under Section 437(6) of Cr.P.C. where in a bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case;

- (n) UTP's Convicts who have undergone their sentence as imposed are entitled to release because of remission granted to them.

Jail Superintendent shall be in continuous touch with concerned Secretary, District Legal Services Authority regarding disposal of interim bail application moved by the undertrials, so that proper arrangement for drafting and presentation of applications may be made.

12- The Under Trial Review Committee contemplated by the Hon'ble Supreme Court in *Re Inhuman Conditions in 1382 prisons*, (2016) 3 SCC 700, shall meet every week and take such decisions in consultation with the concerned district authority as per the said judgment. The relevant extract from the said judgement is being quoted as under for ready reference and compliance of the same in letter and spirit;

“16. With regard to the third issue regarding effective implementation of Section 436A of the Code of Criminal Procedure, (for short the Cr.P.C.), the affidavit stated that an advisory had been issued by the Ministry of Home Affairs of the Government of India on 17th January, 2013 to all the States and Union Territories to implement the provisions of Section 436A of the Cr.P.C. to reduce overcrowding in prisons. Among the measures suggested in this regard by the Ministry of Home Affairs was the Constitution of a Review Committee in every district with the District Judge in the Chair with the District Magistrate and the Superintendent of Police as Members to meet every three months and review the cases of undertrial prisoners. The Jail Superintendents were also required to conduct a survey of all cases where undertrial prisoners have completed more than one fourth of the maximum sentence and send a report in this regard to the District Legal Services Committee constituted under The Legal Services Authorities Act, 1987 as well as to the Review Committee. It was also suggested that the prison authorities should educate undertrials of their right to bail and the District Legal Services Committee should provide legal aid through empanelled lawyers to the undertrial prisoners for their release on bail or for the reduction of the bail amount. The Home Department of the States was also requested to develop a management information system to ascertain the jail-wise progress in this regard.”

13- A three Judge Bench of the Hon'ble Supreme Court in ;

Bhim Singh Vs Union of India

(1)(2015)13 SCC 605

has directed the jurisdictional Magistrate /Sessions Judges to hold one sitting in a week in each jail/prison for two months to identify the undertrial prisoners who had completed half period of the maximum term or maximum term of imprisonment stipulated for the offence and pass an appropriate order to release them on bail.

This HPC, directs hereby that the said directive be complied with and report be submitted by SMC.

14- In the aforesaid Writ Petition (c) No.1/2020, *supra*, it was also directed as under;

“The High Powered Committee shall take into account the directions contained in para no.11 of Arnesh Kumar Vs State Of Bihar (2014)8 SCC .273.”

The HPC is of the view that arbitrary exercise of power of arrest and lack of Judicial supervision/Control results not only in deprivation of Constitutionally Celebrated fundamental right to life but at the time of Pandemic, it has also serious repercussion on the management of Pandemic and more particularly in respect to the jail/ remand homes inmates.

The relevant extracts of the said Judgement of Arnesh Kumar Vs State of Bihar (2014)8 SCC .273. has been annexed herewith as Annexure-I for ready reference and compliance.

The DGP, Uttar Pradesh shall ensure the said compliance as per existing law so far as Police is concerned & the Learned Registrar General of the Hon’ble Allahabad High Court shall re-circulate the same for compliance by the Judicial Officers.

15- The Hon’ble Supreme Court in the aforesaid Writ Petition(C) No.1/2020, *supra*. envisaged a State Level Monitoring Committee/Team (SMC) to ensure that the directives issued are being complied with. SMC has been in existence as per order of this Committee dated 27-03-2020. The said SMC is reconstituted hereby consisting of following Members:-

- 1- Secretary, UP State Legal Services Authority.
- 2- Secretary, Women & Child Development, Govt. of Uttar Pradesh.
- 3- Secretary, Health & family Welfare Department, Government of U.P.
- 4- Special Secretary, Prison Department, Government of U.P
- 5- DIG, Prison Head Quarter, UP & he shall be the secretary of the SMC.

The information regarding number of Parole granted and Interim Bail applications moved and decided in a day, shall be compiled by the “State Level Monitoring Team” and the same shall also be displayed on the official website of the Prison, i.e. igprisons-up@nic.in. The said compiled statement shall be transmitted to the email id of UPSLSA i.e. upslsa@nic.in

Other information regarding compliance in respect to other directions like measures taken in Jail regarding Containment, Prevention and Treatment etc in prisons as well as in remand homes of persons in conflict with law or of the females shall be compiled by respective departments and sent to the secretary of the SMC. The Secretary, SMC shall be responsible for ensuring compilation and submission /presentation of said report before this HPC.

The Monitoring Committee (SMC) shall monitor effective implementation of Hon'ble Supreme Court directives and submit it's report to the High Powered Committee by 15-05-2021.

The first meeting of SMC (State Monitoring Committee) shall be organized by the Secretary SMC before 17.05.2021 at appropriate place as decided by it's Secretary & thereafter on weekly basis. The working of the SMC shall be supervised by the Additional Chief Secretary, Home/Prison, Govt. of Uttar Pradesh & Member Secretary, UP State Legal Services Authority.

Let all the concerned Authorities/Officers be informed accordingly

Annexure-1

Relevant Extract of the Judgement of Hon'ble Supreme Court Of India in Arnesh Kumar Vs State Of Bihar (2014)8 SCC . 273:

"X x x x x

7:1: From a plain reading of the aforesaid provision, it is evident that a person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on its satisfaction that such person had committed the offence punishable as aforesaid. Police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the Court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts.

7:2: Law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. Law further requires the police officers to record the reasons in writing for not making the arrest.

7:3: In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 of Cr.P.C.

XXXXXXXXXXXXX

- 10: We are of the opinion that if the provisions of Section 41, Cr.P.C. which authorizes the police officer to arrest an accused without an order from a Magistrate and without a warrant are scrupulously enforced, the wrong committed by the police officers intentionally or unwittingly would be reversed and the number of cases which come to the Court for grant of anticipatory bail will substantially reduce. We would like to emphasize that the practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 Cr.PC for effecting arrest be discouraged and discontinued.
- 11: Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:
- 11:1; All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;
- 11:2: All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);
- 11:3: The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
- 11:4: The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
- 11:5: The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
- 11:6: Notice of appearance in terms of Section 41A of Cr.P.C. be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;
- 11:7: Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.
- 11:8: Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.
- 12: We hasten to add that the directions aforesaid shall not only apply to the cases under Section 498-A of the I.P.C. or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is

punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

13: We direct that a copy of this Judgement be forwarded to the Chief Secretaries as also to the Director Generals of Police of all the State Governments and the Union Territories and the Registrar General of all the High Courts for onward transmission and ensuring it's Compliance.