

HIGH COURT OF TRIPURA
AGARTALA

WP(C)(PIL) 14 OF 2022

Court on its own motion Vrs. The State of Tripura

Present:

For Court on its own : None.
motion

For the respondent (s) : Mr. S. S. Dey, Advocate General,
Ms. Ayantika Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR.JUSTICE ARINDAM LODH

16.05.2023

Order

Reference is made to the order dated 1st May, 2023 which reads as under:

*“The present public interest litigation was instituted in view of the directions passed by Hon'ble Supreme Court in the case of **Satender Kumar Antil vrs. Central Bureau of Investigation & another in Miscellaneous Application No.1849/2021** arising out of **Special Leave Petition (Crl.) No.5191 of 2021** along with other petition dated 11.07.2022.*

*The Coordinate Bench of this Court presided over by the then Hon'ble Chief Justice vide order dated 21.09.2022 had issued directions upon the Registrar General of this Court to seek information from all the District & Sessions Judges of the respective districts of the State of Tripura detailing therein the period of custody of each of the Under Trial Prisoners and the provisions of law under which their custody has been directed and also to see whether any of these persons come under the category as per the decisions in **Bhim Singh vrs. Union of India & others** reported in **(2015) 13 SCC 605** or not. In all such cases, the learned District & Sessions Judges and the trial Courts were asked to consider each case on its own merit under the mandate vested under Section 436A of the Cr.P.C. and take necessary steps in that regard as*

*per the directions of the Apex Court in **Bhim Singh** (supra). Learned Advocate General was also directed to request the Public Prosecutors of all the districts as well as the officials to cooperate in the matter and the prison authorities of the State to provide all necessary details of the period for which the UTPs are in custody to the respective Courts. Such details have been received and collated by the learned Registrar General of this Court pursuant to the order dated 15.11.2022. The report is at Flag-X which reads as under:*

"The report as asked for is as follows:

1. District & Sessions Judge, West Tripura, Agartala:-

*As per report of the District Judge, West Tripura, Agartala there are in total 47 numbers of UTPs in the district. However, no report has been given regarding any of the UTPs to have come under the mandate of 436A of CrPC, **that is none of the UTPs is reported to have served more than half of the maximum punishment of the offence for which they are charged with.** (Report enclosed at Flag-A)*

2. District & Sessions Judge, Dhalai, Ambassa:-

*As per report of the District Judge, Dhalai, Ambassa there are in total 32 numbers of UTPs in the district and the highest period of detention amongst them is 03 years 03 months and 15 days. However, no report has been given regarding any of the UTPs to have come under the mandate of 436A of CrPC, **that is none of the UTPs is reported to have served more than half of the maximum punishment of the offence for which they are charged with.** (Report enclosed at Flag-B)*

3. District & Sessions Judge, Sepahijala, Sonamura:-

*As per report of the District Judge, Sepahijala, Sonamura there are in total 38 numbers of UTPs in the district and the highest period of detention amongst them is 02 years 06 months and 20 days. However, no report has been given regarding any of the UTPs to have come under the mandate of 436A of CrPC, **that is none of the UTPs is reported to have served more than half of the***

maximum punishment of the offence for which they are charged with. (Report enclosed at Flag-C)

4. District & Sessions Judge, Belonia, South Tripura:-

As per report of the District Judge, Belonia, South Tripura there are in total 09 numbers of UTPs in the district and the highest period of detention amongst them is 01 year 02 months and 02 days. However, no report has been given regarding any of the UTPs to have come under the mandate of 436A of CrPC, that is none of the UTPs is reported to have served more than half of the maximum punishment of the offence for which they are charged with. (Report enclosed at Flag-D)

5. District & Sessions Judge, Dharmanagar, North Tripura:-

The District & Sessions Judge reported that on receipt of the above said order he has done the exercise of finding out such UTPs who may come under the purview of Section 436A of CrPC and found that there is no such case pending. (Report enclosed at Flag-E)

6. District & Sessions Judge, Khowai:- As per report of the District Judge, Khowai there are in total 81 numbers of UTPs in the district. However, no report has been given regarding any of the UTPs to have come under the mandate of 436A of CrPC, that is none of the UTPs is reported to have served more than half of the maximum punishment of the offence for which they are charged with. (Report enclosed at Flag-F)

7. District & Sessions Judge, Unakoti, Kailashahar:- As per report of the District Judge, Unakoti, Kailashahar there are in total 34 numbers of UTPs in the district and the highest period of detention amongst them is 802 days. However, no report has been given regarding any of the UTPs to have come under the mandate of 436A of CrPC, that is none of the UTPs is reported to have served more than half of the maximum punishment of the offence for which they are charged with. (Report enclosed at Flag-G)

8. District & Sessions Judge, Udaipur, Gomati Tripura:-

As per report of the District Judge, Udaipur, Gomati Tripura there are in total 09 numbers of UTPs in the district. However, no report has been given regarding any of the UTPs to have come under the mandate of 436A of CrPC, that is none of the UTPs is reported to have served more than half of the maximum punishment of the offence for which they are charged with. (Report enclosed at Flag-H)"

Vide order dated 29.11.2022, learned Registrar General was again directed to obtain a detailed report from the State Legal Services Authority for supplementing the report filed by the Registrar General of this Court.

The Member Secretary, Tripura State Legal Services Authority, has submitted a report which is through letter dated 09.12.2022 at Flag-A. It only encloses the detailed report furnished by the Secretary of District Legal Services Authority of all the 8(eight) districts.

The Member Secretary, Tripura State Legal Services Authority, is directed to compile the reports received from the concerned District Legal Services Authorities and update it with the latest information as to the status of custody of all under trial prisoners within the mandate of Section 436A of the Cr.P.C. within a period of 2(two) weeks.

Let a comprehensive and updated report be furnished by the Member Secretary, Tripura State Legal Services Authority, by the next date.

Let the matter may appear on 16.05.2023.

A report has been submitted by the Deputy Secretary, Tripura State Legal Services Authority bearing letter No.3031, dated 15th May,2023 which is a compiled report with latest information received from the Secretaries of DLSAs enclosed as Annexure-A as to the status of custody of all the under trial prisoners within the mandate of Section 436A of the CrPC.

The report is extracted hereunder:

“Report in Compliance of Order dated 01.05.2023 passed by the High Court of Tripura in WP (C) (PIL) 14 of 2022.

By the Order dated 01.05.2023, the Hon’ble High Court directed the undersigned to compile the reports received from the concerned District Legal Services Authorities and update it with latest information as to the status of custody of all the Under trial Prisoners within the mandate of Section 436A of Cr.P.C.

*After receiving the order of Hon’ble Court, the same was communicated to all the 08 (Eight) Secretaries of District Legal Services Authorities and reports are collected. Besides, I have also compiled the previous reports sent by the Secretaries, District Legal Services Authorities and updated it with latest information (**Compiled report enclosed at Annexure- A**).*

After compiling the reports as received from concerned District Legal Services Authorities with latest information as to the status of custody of all under trial prisoners within the mandate of Sec. 436A of Cr.P.C the following report is prepared.

01. **North Tripura District:-** *As per report dated 07.12.2022 as submitted by the Secretary, District Legal Services Authority, North Tripura, there were total 09 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.*

From the updated report of the Secretary, District Legal Services Authority, North Tripura sent to us on 08.05.2023, it appears that out of those 09 numbers of UTPs, 03 nos. UTPs are released on bail and 01 no. UTP is convicted in another case. And the rest 05 Nos. of UTPs do not come under the mandate of 436A Cr. P.C.

Further from the updated report, it appears that at present there are 16 nos. of UTPs in North Tripura District and none of the UTPs comes under the mandate of 436A Cr. P.C.

02. **South Tripura District:-** *As per report dated 07.12.2022 as submitted by the Secretary, District Legal Services Authority, South Tripura, there were total 12 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.*

From the updated report of the Secretary, District Legal Services Authority, South Tripura sent to us on 12.05.2023, it appears that out of those 12 numbers of UTPs, 04 nos. UTPs are released on bail and 06 nos. UTPs are convicted in another case and 02 UTPs are acquitted and they do not come under the mandate of 436A Cr.P.C.

Further from the updated report, it appears that at present there are 42 nos. of UTPs in South Tripura District and none of the UTPs comes under the mandate of 436A Cr. P.C.

03. **Unakoti District:-** As per report dated 07.12.2022 as submitted by the Secretary, District Legal Services Authority, Unakoti District there were total 46 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.

From the updated report of the Secretary, District Legal Services Authority, Unakoti District sent to us on 10.05.2023, it appears that out of those 46 numbers of UTPs, 25 nos. UTPs are released on bail and 12 nos. UTPs are convicted in another case, 03 UTPs are acquitted and 06 Nos. of UTPs are still in Jail Custody. None of them comes under the mandate of 436A Cr. P.C.

Further for the updated report it appears that at present there are **53 nos.** of UTPs in Unakoti District and none of the UTPs comes under the mandate of 436A Cr. P.C.

04. **Gomati District:-** As per report dated 07.12.2022 as submitted by the Secretary, District Legal Services Authority, South Tripura, there were total 58 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.

From the updated report of the Secretary, District Legal Services Authority, Gomati Tripura sent to us on 10.05.2023, it appears that out of those 58 numbers of UTPs, 30 nos. UTPs are released on bail and 05 nos. UTPs are convicted in another case, 01 no.UTP is acquitted and 22 Nos. of UTPs are still in Jail Custody. None of them comes under the mandate of 436A Cr. P.C

Further from the updated report, it appears that at present there are **39 nos.** of UTPs in Gomati District and none of the UTPs comes under the mandate of 436A Cr. P.C.

05. **West Tripura District:-** As per report dated 07.12.2022 as submitted by the Secretary, District Legal Services Authority, West Tripura, there were total 199 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.

From the updated report of the Secretary, District Legal Services Authority, West Tripura sent to us on 13.05.2023, it appears that out of those 199 numbers of UTPs, 138 nos. UTPs are released on bail and 03 nos. UTPs are convicted in another case, 01 no. UTP is acquitted and 56 Nos. of UTPs are still in Jail Custody and 01 No. of UTP is escaped from AGMC Hospital on 03.01.2023. None of them comes under the mandate of 436A Cr. P.C

Further from the updated report, it appears that at present there are **244 nos.** of UTPs in West Tripura District and none of the UTPs come under the mandate of 436A Cr. P.C.

06. **Khowai District:-** As per report dated 08.12.2022 as submitted by the Secretary, District Legal Services Authority, Khowai District, there were

total 89 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.

From the updated report of the Secretary, District Legal Services Authority, Khowai District, sent to us on 13.05.2023, it appears that out of those 89 numbers of UTPs, 59 nos. UTPs are released on bail and 30 Nos. of UTPs are still in Jail Custody and None of them comes under the mandate of 436A Cr. P.C

Further from the updated report, it appears that at present there are 66 nos. of UTPs in Khowai Tripura District and none of the UTPs comes under the mandate of 436A Cr. P.C.

07.Sepahaijala District:- *As per report dated 08.12.2022 as submitted by the Secretary, District Legal Services Authority, Sepahaijala District, there were total 64 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.*

From the updated report of the Secretary, District Legal Services Authority, Sepahaijala District sent to us on 11.05.2023, it appears that out of those 64 numbers of UTPs, 41 nos. UTPs are released on bail and 22 Nos. of UTPs are still in Jail Custody and None of them comes under the mandate of 436A Cr. P.C.

Further from the updated report, it appears that at present there are 81 nos. of UTPs in Sepahaijala District and none of the UTPs comes under the mandate of 436A Cr. P.C.

08. Dhalai District: - *As per report dated 08.12.2022 as submitted by the Secretary, District Legal Services Authority, Dhalai District, there were total 57 numbers of UTPs in custody. But none of the UTPs is reported to come under the mandate of Section 436A of Cr.P.C.*

From the updated report of the Secretary, District Legal Services Authority, Dhalai District sent to us on 15.05.2023, it appears that out of those 65 numbers of UTPs, 45 nos. UTPs are released on bail, 07 nos. are convicted and 13 Nos. of UTPs are still in Jail Custody and none of them comes under the mandate of 436A Cr. P.C

Further from the updated report, it appears that at present there are 22 nos. of UTPs in Dhalai District and none of the UTPs comes under the mandate of 436A Cr. P.C.

Submitted by

Sd/-

(D.M.Jamatia)

Member Secretary,

Tripura State Legal Services Authority”

Learned Advocate General appears for the State. A perusal of the report shows that though there are under trial prisoners in the concerned Districts, but none of them come under the mandate of Section 436A of the CrPC that means none of them have remained for more than half of the sentence in custody during trial till now.

Learned Advocate General submits that in view of the updated report received once again from the Tripura State Legal Services Authority, the instant public interest litigation may be closed.

Compliance of the directions of the Hon'ble Supreme Court may be carried out by the State Legal Services Authority as directed.

Having regard to the aforesaid facts and circumstances brought on record through the latest report of the State Legal Services Authority, it appears that no under trial prisoners falls within the mandate of Section 436A of the CrPC in any of the Districts of Tripura as on date. As such, there is no purpose in keeping the instant petition pending and accordingly, it is closed.

(ARINDAM LODH),J

(APARESH KUMAR SINGH),CJ

