

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.9 OF 2016

Pradeep Govind Bhalekar Petitioner
Vs.
The State of Maharashtra & Others Respondents

Mr. Nitin Shivram Satpute with Ms Divya Gupta for
the Petitioner.

Mr. A.A. Kumbhakoni, Advocate General with Mr. Akshay
Shinde & Ms P.P. Shinde, APP, for the Respondent-State.

Mr. U.M. Pawar, Superintendent, Yerawada Central
Prison, Pune, present.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : FEBRUARY 01, 2018

P.C:

1. By this petition under Article 226 of the Constitution of India, the petitioner prays that this Court should direct the respondents to produce the records in relation to a convict who has since been released from prison after serving out his sentence, particularly in relation to an order issued by the first

respondent.

2. This petition was filed on 25-2-2016.

3. The petitioner says that he is a social worker. He says that he has been espousing the cause of the present nature in larger public interest.

4. One, then convict prisoner, Sanjay Sunil Dutt was allegedly released before completion of five years of his jail sentence, awarded by the Competent Criminal Court at Mumbai. The petition says that the first respondent released this convict 127 days prior to completion of his full jail term of five years on the ground of his good behaviour. However, the first respondent has not mentioned anywhere the criteria of good behaviour as per the Jail Manual. The first respondent has over-looked the fact that Sanjay Dutt was involved in anti-national activity. He was prosecuted and sentenced to suffer rigorous imprisonment for five years and which was upheld by this Court and the Hon'ble Supreme Court.

5. That Sanjay Dutt is a film star and celebrity with good political connection. He, therefore, managed to come out of the jail or custody by seeking furlough. His furlough request was granted with speed and expedition. At the same time, there are several prisoners who are knocking at the doors of the authorities for release on furlough/parole and their applications are not considered.

6. The petitioner says in para 6 of this petition that the authorities have extended innumerable favours to this celebrity/film star. That he has jumped parole on many occasions but the authorities turned a blind eye to his gross and blatant violation of law. It is stated that the action is contrary to the factual position and once the convict has jumped parole, then, that is an offence and the Jail Manual is invoked by the petitioner in that regard. Such a prisoner, therefore, could not have been released and prematurely. The Hon'ble Supreme Court having reduced the sentence to five years from six years, it was expected from the State that this convict undergoes the full sentence.

7. In para 11, it is stated that Sanjay Dutt was released on parole of 90 days and thereafter he was released on furlough for 28 days, and again on the ground of nose surgery of his daughter, he was released on furlough of 28 days. He was out of jail for 146 days, that means almost five months. Poor people are not granted such facilities.

8. Then it is stated that the Jail Manual is breached in the case of Sanjay Dutt because furlough is granted only to those convicts who have completed 22 months of sentence and that too for 14 days, extendable to another 14 days on genuine medical grounds. In the case of Sanjay Dutt, he was granted furlough within two months of his serving the sentence.

9. Then a grievance is made that as per the available records, the said prisoner's turn for furlough would have come at serial No.203 but preference was granted to him by considering his case at serial No.10.

10. Then in the list of parole prisoners and as per record,

Sanjay Dutt's name is mentioned at serial No.238 but preference was granted to him by considering his case at serial No.28.

11. There are approximately 27740 convicts in 55 central prisons and undergoing sentences but they are not extended similar benefits. Therefore, the Government must consider granting furlough and parole to all these prisoners languishing in prisons in the State of Maharashtra.

12. Then it is stated that there are about 55 prisoners who died in the jail due to serious illness, including AIDS, cancer, TB and other incurable diseases. Thus, as a public spirited citizen the petitioner brings to the notice of this Court and the authorities the disparity and the inequality in the treatment to prisoners.

13. Then it is stated that insofar as the petitioner is concerned, he was kidnapped by Kurar Police Station on 24-2-2016 for the whole day and released late night so that he should not file any petition in the case of Sanjay Dutt.

14. Thus, the petitioner says that the police machinery has violated the fundamental rights of citizens and he has no alternative, equally efficacious remedy save and except the present petition.

15. On such a petition being filed and moved in this Court, and seeking to espouse larger public interest, this Court placed it for admission. The petition could not be taken up for want of time and on some occasions the petitioner's Advocate sought time. Then, on 3-7-2017 the learned APP sought time on the ground that the Advocate General of the State of Maharashtra is requested to appear in this matter. Hence, to enable the learned Advocate General to appear, the matter was adjourned to 17-7-2017.

16. Thereafter, it was stood over to 27-7-2017. A report was filed but a translation was sought by this Court and that was to be placed on affidavit. For that reason, the matter was adjourned on 27-7-2017.

17. If we go by the records of this case, firstly, the

Superintendent, attached to Yerawada Central Prison, filed an affidavit, copy of which is at pages 31 to 40 of the paper-book. That is dated 14-9-2016. To clear the ground, he sets out all the facts in relation to Sanjay Dutt. In para 3 of this affidavit he says that Sanjay Sunil Dutt was sentenced to suffer imprisonment for six years (rigorous imprisonment) on 31-7-2007. He was transferred from Mumbai Central Prison to the prison at Yerawada to undergo the sentence on 2-8-2007. As per the order of the TADA Court, Greater Bombay, he was released on interim bail on 23-8-2007. He surrendered to Mumbai Central Prison, Mumbai and was transferred to Yerawada Central Prison on 22-10-2007, to undergo the said sentence. A Criminal Appeal No.1060 of 2007 was filed in the Hon'ble Supreme Court of India by the convict prisoner Sanjay Sunil Dutt. The Hon'ble Supreme Court of India granted bail in Criminal Misc. Petition No.14314 of 2007 in Misc. Application No.356 of 2007 in Criminal Appeal No.1060 of 2007. As per the order of the Court, dated 28-11-2007, he was released on bail on 29-11-2007. Later on, his criminal appeal was partly allowed by the Hon'ble

Supreme Court of India and the sentence was reduced from six to five years. He was admitted to Mumbai Central Prison, Mumbai on 16-5-2013 and transferred to Yerawada Central Prison on 22-5-2013.

18. Thereafter, the attention of this Court is invited to the Maharashtra Prison Manual, 1979, Chapter XXXVIII. It is stated that there are specific rules enabling a convict prisoner to be granted ordinary remission and annual good conduct remission. The prison authority had allocated work to convict prisoner Sanjay Sunil Dutt. He was working in the prison like any other prisoner and his conduct was good and satisfactory. He was found to be eligible for ordinary and annual good conduct remission as per the provisions in the Maharashtra Prison Manual. However, special or State remission was never granted to him.

19. Then, our attention is invited to Chapter XXXVII of this Manual, “Furlough and Parole to Prisoners”, the Government Notification dated 23-2-2012 and Rule 19. The

specific statement is that, a prisoner may be released on parole for such period not exceeding 30 days at a time, as the Competent Authority referred to in Rule 18 may, in its discretion, order in cases of serious illness or death of nearest relatives such as mother, father, sister, brother, children, spouse of the prisoner, or in case of natural calamity such as house collapse, floods, fire. However, no parole or extension of parole shall be granted without obtaining a police report in all cases except in the case of death of the nearest relatives, mentioned above.

20. Then, a Government Notification dated 21-11-1989 is referred, and later on a letter dated 25-1-2006. The convict prisoner Sanjay Sunil Dutt filed an application for parole leave on account of his wife's illness. It was sent to the sanctioning authority, namely, the Divisional Commissioner, Pune, on 25-7-2013 and a copy was forwarded to the Commissioner of Police, Mumbai for opinion and verification of surety given by the prisoner. The parole leave was sanctioned on 6-12-2013. The convict prisoner was released on parole for 30 days on

21-12-2013 and it was further extended. He was supposed to surrender on 22-3-2014 and he surrendered on the due date. Later on, he filed an application for parole leave on account of his daughter's illness. That was also sent to the sanctioning authority on 26-3-2015. The parole leave was sanctioned for 30 days on 13-8-2015 and he was released on 26-8-2015. He was supposed to surrender on 26-9-2015 and he surrendered on the due date.

21. The paragraphs 8 and 9 of this affidavit read as under:-

“8. I say that according to provisions in Maharashtra Prison Manual 1979, Chapter XXXVII, “Furlough and Parole to Prisoners”, Rule no.3(1) “A prisoner, who is sentenced to imprisonment for a period exceeding one year but not exceeding five years, may be released on furlough for a period of two weeks at a time of every year of actual imprisonment undergone” & according to government notification issued dated 02.12.2003” The sanctioning authority may determine the extension of furlough leave shall be granted for only 14 days only once in a calender year and no further extension shall be granted to prisoner” & according to Government Notification issued dated 23.04.2012, “The furlough period of two weeks and extended furlough of 14 days shall be counted as a remission of sentence”.

9. I say that convict prisoner Sanjay Sunil Dutt, has

filed application for furlough Leave & same was sent to sanctioning authority i.e. Deputy Inspector General of Prison, Western Region, Pune on 08/07/2013 and copy was forwarded to Commissioner of Police, Mumbai for opinion and verification of surety given by Prisoner. Deputy Inspector General of Prisons, Western Region, Pune has sanctioned the Furlough Leave to convict prisoner Sanjay Sunil Dutt for two weeks on 16/09/2013, accordingly he was released on Furlough Leave for period of two weeks on 01.10.2013, the said leave was further extended for the period of two weeks. He was suppose to surrender on 30.10.2013 accordingly he surrendered to Prison on due date on 30.10.2013.”

22. Then, in para 10 the request for release on furlough and the details thereof are mentioned and it is stated that the convict was sanctioned furlough leave for a period of 2 weeks on 22-12-2014. He was supposed to surrender on 8-1-2015 and he surrendered to prison on 10-1-2015, late by two days. That is why the office of the Yerawada Central Prison proposed prison punishment to the convict and his remission was proposed to be forfeited by two days. That proposal was sent to the District and Sessions Judge, Pune for judicial appraisal on 11-5-2015. However, the proposal was not approved and the Additional Sessions Judge, by letter dated 19-5-2015, asked the authority to act as per clause 5 of the circular of the Government dated

7-9-2013. That is why the proposal was sent to the Principal Secretary, Department of Home (Prisons), Mantralaya, Mumbai on 10-6-2015. The Government of Maharashtra granted the extension of furlough leave for two days and quashed the proposal of the Superintendent, Yerawada Central Prison dated 2-1-2016. Once again, in paras 11 and 12, Furlough and Parole Leave to Prisoners Rules are referred and it is stated that as far this prisoner is concerned, he has undergone his full sentence of five years. Thus, no fundamental right of other prisoners was violated nor the power was abused so as to facilitate Sanjay Sunil Dutt to be released on parole or furlough. There was no question of showing any favour to him.

23. Then it is stated that as far as the medical condition of the prisoners is concerned, each one of them is examined and there are medical practitioners and experts available.

24. Pertinently, as far as the petitioner is concerned, it is stated that he was convicted for three years' rigorous imprisonment by order of the City Civil & Sessions Court,

Mumbai in Sessions Case No.124 of 2007. The conviction and sentence was for an offence punishable under Section 307 of the Indian Penal Code. While undergoing the said sentence, he was released on furlough leave from Nashik Road Central Prison. He did not surrender back to prison on the due date and over-stayed by 769 days. He was arrested in another case and admitted in Thane Central Prison by the police on 12-2-2011, and was transferred to Nashik Road Central Prison on 14-5-2011. He had another case pending against him before the Court of 32nd Metropolitan Magistrate, Bandra, Mumbai where offences alleged to have been committed were punishable under Sections 384, 385 and 387 r/w Section 34 of the Indian Penal Code. He was released on bail in that case from Mumbai Central Prison, Mumbai on 28-8-2015. He was also detained under the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous persons, Video Pirates, Sand Smugglers and persons engaged in Black-marketing of Essential Commodities Act, 1981 at Thane Central Prison, District Thane. The petitioner, therefore, has criminal

antecedents and he has not filed this petition to espouse any cause of larger public interest. After this affidavit of 14-9-2016, there is an additional affidavit and in that a reference is made to another PIL on the same subject being Criminal Public Interest Litigation No.13 of 2014. That was filed by one Tushar Maruti Pabale. The convict prisoner Sanjay Sunil Dutt was respondent No.6 to this PIL. Apart from various other reliefs, the petitioner therein questioned the grant of furlough leave to Sanjay Sunil Dutt. He also questioned the extension of furlough/parole leave. Thus, he says that first parole leave and thereafter furlough leave was availed by Sanjay Sunil Dutt and this was a favour and special concession to him. In this PIL, on 25-2-2014, a detailed order was passed by this Court. A copy of that order is annexed at page 67 of the paper-book. The Court dealt with several issues and a detailed affidavit was filed showing as to how furlough and parole leaves are granted to prisoners. A copy of that affidavit is also annexed to this additional affidavit at page 71 of the paper-book. In para 6 of this additional affidavit, it is stated that an order was passed on 15-11-2016 by which

this Court observed that the grievance in relation to the convict in issue has become academic with passage of time and the larger issue raised does not survive in view of the Amended Rules of 2016. The PIL was disposed of.

25. Therefore, it is stated that the issue raised in the present PIL was already considered and once again another PIL is filed on the same cause of action.

26. It is stated that a brief note explaining the power and procedure imposing punishment on account of unauthorised over-stay of the convict prisoner is set out in this affidavit and the procedure is explained. The procedure was applied and to the case of Sanjay Sunil Dutt and that is how the proposal to forfeit his remission came to be forwarded.

27. Thereafter, the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 1959 and the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 2015 have been enacted by Notification dated 1-12-2015. The salient features of these amended Rules are highlighted. Thus, furlough shall not be

granted to a prisoner within a period of six months from the date of his return from parole. The convict in issue was initially granted furlough leave after he became eligible for the same in the month of October, 2013. Thereafter, in the month of December, 2013, he was released on parole for the contingency that existed at the relevant time, which was permissible and not prohibited under the Rules. Thus, the Rules provide for grant of these leaves and their refusal. The convict, as in the case, namely, Sanjay Sunil Dutt has never been granted any leave, be it furlough or parole *de hors* the Rules and the same has been granted in accordance with these Rules. Then the affidavit highlights as to what is taken into consideration as far as the conduct is concerned. This very detailed affidavit and additional runs into about 23 paragraphs.

28. After this additional affidavit was also served on the petitioner and his Advocate, we do not find any response thereto in the form of a rejoinder or otherwise.

29. None of the averments and statements in this

affidavit have been denied. When this Court was apprised of the factual position in relation to Sanjay Dutt and with the dates as enlisted in a chart, that chart was taken on file in the presence of the petitioner's Advocate. None of the statements made in the annexures to this affidavit or the chart are dealt with, leave alone denied nor any explanation is coming forward about his silence from the petitioner.

30. On the earlier occasion, the learned Advocate General invited our attention to a very serious aspect of the matter and that is according to him, noteworthy and should be dealt with by this Court. He submitted that despite these two extensive affidavits containing detailed explanations, an impression has been given to the public at large by those interested in maligning the State Government and particularly the prison administration that, undue favour was shown to Sanjay Dutt or a special treatment was given to him. The impression and contrary to official and Court records continues to be given through interviews and publications, particularly through social media. Mr. Kumbhakoni sought time, therefore,

to give a further explanation on affidavit and he would submit that he has a duty towards the Court. Apart from being the highest Law Officer of the State, he is also an officer of this Court. He would not like the Court to get any impression about favours being shown allegedly to Sanjay Dutt.

31. We expressly told him on the earlier occasions that a Court of law goes by a certain procedure. In a Court of law we ensure and to the best of our ability that justice is not only done but seen to be done. At an open hearing of this and the earlier PIL, the explanation of the State Government and particularly the Department of Home and those concerned with and in-charge of the prison administration was taken on record. An affidavit filed in Court containing solemn statements on oath are based on official records. Once they are backed up by official records and which can be perused and scrutinised by a Court, then, the minimal expectation is that if there is anything contra and available from this very record, the petitioner should be bold enough to bring all this to the Court's notice. Once the Advocate General invited our attention to the two affidavits and

we find nothing contrary thereto in the records of the Court or the official records, we clearly told him and in open Court, that as far as the case of Sanjay Dutt and allegations pertaining to him are concerned, the matter may be treated as closed.

32. We only highlighted one aspect of the matter and that is the impression the prisoners are getting on account of the adverse media publicity. That needs to be dispelled forthwith and by the State. We expected a responsible officer of the Government therefore to file an affidavit and which is also now filed. The affidavit of the Superintendent, Yerawada Central Prison, dated 29-1-2018, copy of which was also handed to the petitioner's Advocate, has been taken on record in the presence of the petitioner's Advocate by us today.

33. In this affidavit as well, we find there is a proper explanation given as to how furlough or parole applications are dealt with and in accordance with the Rules.

34. An explanation has also been given that ultimately these Rules contain procedural aspects. The formalities

prescribed for compliance with the procedure will take some time in the case of one prisoner and therefore his application, though serially earlier in point of time, is considered later on. The State holds this view that merely because the details of the applications are entered in a register seriatim, the consideration of the same in that order may not be possible, for in the case of the earlier application the procedural formality may take more time to be complied with. The latter prisoner, therefore, should not suffer and in the case of such latter prisoner if all procedural formalities are complied with and the compliance is reported on file, then, his application is taken up for consideration and either rejected or allowed. Therefore, at times it is difficult to follow the rule which is ordinarily and normally followed – first come first served basis. Thus, ordinarily the applications are considered in the order in which they are received but sometimes the procedural compliance takes time. Beyond that, according to the learned Advocate General, nothing further can be read in the case of a particular prisoner nor any *mala fides* can be attributed to the authorities straightaway. More so, when

reasons for the delay are on file.

35. When this affidavit was taken on record, we allowed the petitioner's counsel to make detailed submissions.

36. He would highlight only the case of Sanjay Dutt. He would submit that Sanjay Dutt is shown undue favour and that is evident if we peruse the list of the prisoners which is maintained in the official records. He would highlight, firstly, the case of the petitioner at serial No.10 Nilesh Ramesh Joshi. He applied for parole but his application was not considered and the application of Sanjay Sunil Dutt, who is low down in the list at serial No.203 below was taken as if he is at serial No.10. Even in the case of furlough, one prisoner, Namdeo Sopan Undre, whose name appears at serial No.28, could not obtain the leave but Sanjay Sunil Dutt, who is low down in the list, sought such leave and he was promptly granted the same. The name of Sanjay Sunil Dutt is at serial No.238. This, according to the counsel, is a gross violation of the Rules and would demonstrate favouritism and in any event, is an act of arbitrariness or abuse

of the discretionary power.

37. We are unable to agree with him for more than one reason. Firstly, the two prisoners whose names are set out have made no grievance at all. They have not moved any authority complaining about favouritism or lack of consideration of their requests or applications in accordance with the Rules. They have not approached any Court of law either. We do not see how, by merely highlighting the case of the two prisoners, can one prisoner before us and seeking to espouse public interest complain. We do not have any details of these persons barring their serial numbers. In the entire petition there are no pleadings how these two and other prisoners were allegedly discriminated against.

38. We ought to remind those moving this Court in public interest that public interest petitions are entertained after there is compliance with the PIL Rules, which have been framed by this Court. These Rules are given wide publicity also. Once such Rules mandate that a person filing such petition must fulfil

his responsibility not only to the Court but to the public at large, then, he must make a thorough and proper research. He must set out all the materials and must raise a legal challenge and within the framework of law. He has to give details and particulars of *mala fides*, including the names of public officials, their designation, their official power and role, etc., and the law of pleadings as applicable to other litigation is totally inapplicable to PILs. Far from adherence to such Rules and which bring some order and discipline in the filing of PILs, we do not find PIL petitioners making any research or filing petitions, even through Advocates, with a sense of responsibility. We find petitions are dropped in this Court and before they are taken up, the gist or the whole of it is released to the press and to the media and based on that publicity is sought by the person instituting it. The Hon'ble Supreme Court has time and again reminded all that this is not a publicity interest litigation or paise interest litigation but litigation in public interest. If there is public interest raised and canvassed, then alone this Court is obliged to take note of the same or else it can be thrown out at

the threshold. We are not concerned with the impression that the media gets from Press Conferences or statements given to press/media for they are either incomplete or convenient and in communicating them to the public at large the media takes a risk. Such statements on many occasions are not a honest and truthful account of the case, the issue or point involved. The petitioners' or litigants lack of knowledge of law or procedure of a Court is evident therefrom. The media reports have news value. Beyond that they cannot be termed as legally admissible evidence before the Court. Anything to be termed as evidence has to have certain credibility and sanctity attached to it. There is a process known to law and its efficacy cannot be diluted by introducing and substituting news or media report or statements made to the media as a pleading before a Court leave alone oral or documentary evidence. In the case of **Samant N. Balakrishna, etc. Vs. George Fernandez and others**, reported in AIR 1969 SC 1201, the Hon'ble Supreme Court made a strong comment on news reports. It observed as under:-

“47. Further we have ruled out news items which it is the function of the news-paper to publish. A news item

without any further proof of what had actually happened through witnesses is of no value. It is at best a second-hand secondary evidence. It is well known that reporters collect information and pass it on to the editor who edits the news item and then publishes it. In this process the truth might get perverted or garbled. Such news items cannot be said to prove themselves although they may be taken into account with other evidence if the other evidence is forcible.”

This principle was restated in the decision of **Quamarul Islam Vs. S.K. Kanta**, reported in AIR 1994 SC 1733 and the Hon'ble Court held as under:-

“47. Newspaper reports by themselves are not evidence of the contents thereof. Those reports are only hearsay evidence. These have to be proved and the manner of proving a newspaper report is well settled. Since, in this case, neither the reporter who heard the speech and sent the report was examined nor even his reports produced, the production of the newspaper by the Editor and Publisher, PW 4 by itself cannot amount to proving the contents of the newspaper reports. Newspaper, is at the best secondary evidence of its contents and is not admissible in evidence without proper proof of the contents under the Indian Evidence Act.

48. This Court in Laxmi Raj Shetty v. State of Tamil Nadu, (1988) 3 SCC 319 at 346 : (AIR 1988 SC 1274 at p.1290), considered the question of admissibility of the news items appearing in a press report in the newspaper and opined:

“We cannot take judicial notice of the facts stated in a news item being in the nature of hearsay secondary evidence, unless proved by evidence

aliunde. A report in a newspaper is only hearsay evidence. A newspaper is not one of the documents referred to in S.78(2) of the Evidence Act, 1872 which an allegation of fact can be proved. The presumption of genuineness attached u/S.81 of the Evidence Act to a newspaper report cannot be treated as proved of the facts reported therein.

It is now well settled that a statement of fact contained in a newspaper is merely hearsay and, therefore, inadmissible in evidence in the absence of the maker of the statement appearing in court and deposing to have perceived the fact reported.”

....”

The pleadings and statements before the Court are made solemnly and a oath is administered to those making them and coming before the Court as litigants. They may say anything outside the Court but once they enter a Court of law, then, it is their bounden duty to discharge the burden cast on them by law. It is they who have to prove the allegations made. It is easy to make allegations but difficult to prove them, for before a Court of law your version, its credibility and your character are at stake if one deposes as a witness, then, he must be possessed of the strength and should be courageous enough to face a cross-examination by his opponent or questioning by the Court. We find that all litigants are not brave much less bold enough to

withstand this rigorous test and when they do not succeed in their motives to either malign their opponent or to mislead the Court, they launch an attack on both through either social media network or by making complaints against Judges and Public Officials. This trend is increasing and Courts must remind the parties of the seriousness and solemnity of Court proceedings. We want before a Court a genuine public interest litigant. We do not think therefore that the complaint made by the highest Law Officer of the State, the Advocate General of Maharashtra, requires any further attention. We have said what we want and beyond this we do not think anything more is required.

39. From what has been pleaded by the petitioner, we find that there is absolutely no material which would substantiate a bald or vague allegation and made across the bar. There is absolutely nothing on the record which can be styled as admissible evidence based on which we can take further action.

40. We are satisfied with the explanation placed on affidavits but before we close the case we would expect the State

Government to abide by the Rules and the Circulars brought to our notice. We accept the statements made in each of the affidavits as undertakings given to this Court. We would expect a departure or deviation from the Rules to be an exception. It is only when there is a compelling necessity, that an exception should be made and the reasons should be recorded for making such an exception. Nobody should gain an impression that cases of release on parole or furlough are picked up for favourable consideration and taken out of turn. In the event there is a strong case and in which such applications are taken up and decided out of turn, we would expect reasons to be recorded on the file itself. We would expect all the Divisional Commissioners not to differentiate much less discriminate against prisoners. The permissible classification alone should enable them to distinguish the cases of the prisoners. We are mindful of the fact that the prison authorities are not responsible and solely for compliance with the procedures. The matters are often referred to Divisional Commissioners who are Revenue Officials. They are endowed and entrusted with other duties and therefore it

takes time for them to verify the truthfulness of the statements made in the applications. They have to be tested for their veracity. They have to gather information with regard to the property - immovable and movable - of the prisoners and their antecedents. They have to, on certain occasions, make inquiries in far off and remote villages and with the family members. Sometimes these persons do not co-operate with these authorities. It takes time, therefore, to deal with the applications. We, therefore, expect the State Government to devise such a procedure as would ensure total co-ordination between the Revenue and police officials. There should be and with the aid of modern technology and devices prepare a scheme by which these applications are forwarded to the Revenue Officials promptly. The Revenue Officials should then devise a further procedure so that these applications do not remain unattended. If they remain unattended for a certain time, let the Revenue Officials also place their reasons for the delay in their reports to the prison authorities. The prison authorities must demand such materials from the Revenue Officials for parole or

furlough may not be a fundamental right of a prisoner but nevertheless there are Rules in place and which enable a discretion to be exercised by the prison authorities and which discretion should not be misused much less abused. To eschew all allegations of bias, prejudice and lack of *bona fides*, it is but natural that we expect the prison authorities and the Revenue Officials to co-operate with each other and work hand-in-hand. We do not expect them to be so strict that they are unable to relax the rules. However, they cannot be by-passed completely. The delays can be avoided or minimised given the modern technology and its ready availability. Therefore, it is necessary that training has to be imparted and proper procedures are put in place, that accountability is fixed so that none of the prisoners get a impression of the nature brought to our notice nor the State is flooded with applications for release on parole/furlough and thereafter allegations are made merely because they are pending. In the circumstances, we expect the learned Advocate General to bring this order to the notice of all concerned and particularly the Ministry of Home and the Department of

Revenue and Forests then to take the requisite steps.

41. The PIL is disposed of.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)