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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20th October, 2020

+ **W.P.(CRL) 1731/2020**

HIMANSHU GUPTA

..... Petitioner

Through: Ms. Priyanka Sinha, Advocate
alongwith Mr. Himanshu Gupta,
petitioner in person.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Mr. Sumer Kumar Sethi, Advocate
for R-3/DSL SA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

D.N. PATEL, Chief Justice (*Oral*)

The proceedings in the matter have been conducted through video conferencing.

1. This petition, styled as a public interest litigation, has been preferred with the following prayers:-

“a) Issue appropriate writ, order/s or direction/s calling for all the records from the Respondents in respect of the criteria for consideration of UTP's facing Trial U/S 302 IPC to be entitled for Interim Bail/Parole;

b) Issue appropriate writ, order/s or direction/s directing the Respondents to exclude the UTP's facing Trial U/S 302 IPC to be entitled for Interim Bail/Parole from the recommendations of the Hon'ble Committee and facilitate their immediate custody;

c) Issue appropriate writ, order/s or direction/s directing the Respondents to impose strict checks and balances while releasing UTP's facing Trial U/S 302 IPC on Interim Bail/Parole;

d) Issue appropriate writ, order/s or direction/s directing the Respondents to impose strict checks and balances on UTP's facing Trial U/S 302 IPC already released on Interim Bail/Parole;

e) Pass such other and further orders or direction, as may be deemed fit and proper.”

2. Having heard learned counsel for the petitioner and looking to the minutes of the High Powered Committee dated 18th May, 2020, which is at Annexure P-5 to the memo of the writ petition, and looking to the facts and circumstances of the case, it appears that several grievances have been ventilated about the said minutes of the High Powered Committee and the release of undertrial prisoners with certain conditions.

3. It ought to be kept in mind that the State Government is always party to any criminal litigation. Especially in cases where bail is wrongly granted, the State Government can always move the Court by way of a separate independent application, and looking to the latest amendments in the Code of Criminal Procedure, 1973, the victim can also prefer such type of application.

4. Hence, in case of any individual case, appropriate decision will be taken by the Court after looking into the observations of the High Powered Committee in the minutes of meeting dated 18th May, 2020 (Annexure P-5).

5. It ought to be kept in mind that the High Powered Committee was constituted under the directions of Hon'ble the Supreme Court in Suo Motu W.P.(C) 1/2020. The High Powered Committee is a multi-member committee headed by the senior most sitting Judge of the Delhi High Court. Moreover, the Government officials are also members of the High Powered Committee and have participated in the meetings.

6. Hence, at this stage, we are not inclined to grant any of the reliefs in this public interest litigation. As and when an individual case is brought to the notice of this Court, looking to the facts and circumstances of the case, the allegations upon the accused, the manner in which the offence/offences have been committed by the accused, the possibility of tampering with the evidence, and also looking to the possibility of non-availability of the accused, this Court may pass an appropriate order in given individual cases.

7. With these observations, this writ petition is disposed of.

CHIEF JUSTICE

OCTOBER 20, 2020/kks

PRATEEK JALAN, J