



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

+ **BAIL APPLN. 1982/2021**

Date of Decision 20.01.2022

IN THE MATTER OF:

SUMER

..... Petitioner

Through None.

versus

STATE (GOVT. NCT OF DELHI)

..... Respondent

Through Mr. Sanjay Lao, Standing Counsel with Mr. Hirein Sharma, APP for State with Mr. Harender K. Singh, DCP (Legal), PHQ, Delhi, Mr. Parminder, DCP Outer and W/SI Birmati Yadav, P.S. S.R. Railway.

Ms. Aishwarya Rao and Ms. Mansi Rao, Advocates for the prosecutrix.

Ms. Neelam Narang, Addl. P.P./Incharge Rape Crisis Cell, DCW.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(VIA VIDEO CONFERENCING)

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. Time and again, this Court has been constrained to note that in cases where bail is sought, the Status Reports are not filed timely on behalf of the State, despite specific directions in that regard. Even if filed, the Reports are



often undated and do not mention the material aspects of the case including the antecedents of the accused. Therefore, although the prayer for bail came to be disposed of in the present case, the application was kept pending for seeking suggestions of the State on the aforementioned issues.

2. On 17.12.2021, *Mr. N.S. Bundela*, Joint Commissioner of Police (Legal Division) appeared through V.C. and stated that in order to streamline the process of filing of Status Report(s) in Court, the concern had been taken up by the Department and necessary instructions had been issued to all the districts so that the concerned SHOs/Investigating Officers were sensitised about timely filing of detailed Status Reports containing all necessary information as well as the antecedents of the accused.

3. An affidavit under the signatures of *Mr. Rajesh Deo*, DCP, Legal Cell, PHQ, Delhi has been placed on record, wherein it is mentioned that a meeting was conducted on 05.08.2021 which was attended by the DCPs/Districts/Investigating Units as well as learned Standing Counsel (Crl. & Civil)/APPs/ASC. The minutes of the said meeting have also been placed on record, as per which suggestions given by the stakeholders were considered and adopted. It is also mentioned that an Office Order bearing No.4014-40/Legal Cell/PHQ dated 30.07.2021 had been issued to all districts/Units in Delhi, stating that to avoid the delay in filing of the Status Reports, draft replies to the bail applications be sent to the respective counsels at least 3-4 days in advance to enable them to vet the same. In the Order, it was further stated that the vetted fair reply, duly signed, be forwarded to the concerned Government Counsel at least two days in advance to enable filing of the same in the Court well in time.

4. To further streamline the process of filing of the Status Reports,



another Office Order bearing No.73/S/HC/21/6074-94/Court Cell(DA-III)/PHQ dated 08.09.2021 has been issued by the DCP, Legal Cell, PHQ, New Delhi. As per the Order, a direction has been passed to the effect that ACPs/Legal Cells, Districts/Investigating Units shall maintain a Register in their offices pertaining to Status Reports of their concerned districts/units, which are to be filed in Courts. It is stated that these authorities will monitor the status of these cases to ensure timely filing of Status Reports before Courts.

On the issue of filing of Status Reports which are not upto the mark, it is stated in the Order that all Status Reports prepared by Investigating Officers should be duly checked by the DCP/Addl. DCP of the district/Investigating unit prior to filing before the Courts.

5. Learned APP for the State submits that an additional affidavit of the DCP, Legal Division, PHQ, Delhi has also been placed on record. In the said affidavit, it is stated that all the DCPs District/Unit have been instructed to direct ACPs/SHOs/IOs that – (i) Status Reports must be filed timely, (ii) While preparing Status Reports, role of accused in the case, evidence against the accused and previous involvement of accused must be incorporated and the 35 points, as elaborated by the Gujarat High Court in Thakore Laxmanji @ Angi Rajuji v. State of Gujarat reported as **1992 SCC OnLine Guj 16** must be covered as far as possible at the time of filing of Status Report to oppose the bail application, (iii) The concerned officer must clearly mention the date and put his signature on the Status Report.

In the additional affidavit, reference is also made to Circular No. 02/2022 issued by the DCP, Legal Division, PHQ, as per which the Status Reports are required to be filed in line with the decision in Thakore Laxman



Ji (Supra). In the said Circular, a note has also been made of the observations contained in order dated 26.11.2020 passed by a Co-ordinate Bench of this Court in Md. Danish v. State (NCT of Delhi) reported as **2021 SCC OnLine Del 607**.

6. Learned Standing Counsel has also drawn the attention of this Court to Standing Order No. 73/2007 issued with respect to *Pairvi* of Court cases, which notes thus:-

“B. High Court

...The following matters being dealt in Delhi High Court may concern Delhi Police:-

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b) Bail matters, in the nature of anticipatory bail or regular bail.

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The Delhi Police staff posted with Standing Counsel need to ensure that the matters of Delhi Police are defended and no order is passed ex-parte. It should be ensured that information is given well in time PS and SHO/Addl. SHO/Inspector (investigation) and not only a day or two before the date of hearing. They should keep in mind that they are posted with Standing Counsels to assist Delhi Police in defending the matters before High Court. They shall also ensure that in writ petitions the advance copies of reply are deposited in court well in time so that the Hon'ble Court/ Courts do not pass any remarks ex-parte.”

7. He has also referred to Standing Order No. 65/2015 outlining procedure for handling of Court cases, wherein it has been observed as follows:-

“(C) Handling of Suits, Revisions, Complaint Cases, Bail Matters, Applications, Notices etc. by Head of Offices and Branches



On receipt of notice of Suits, Revisions, Complaint Cases, Bail Matters, Applications and other matters, PHQ shall send the same to District/Unit Head who will ensure that reports/comments are furnished to Legal Cell, PHQ expeditiously, especially in those criminal/civil matters in which the Hon'ble Courts have passed strictures/adverse observations and specifically asked/directed the CP, Delhi to file an action taken report/compliance report.

For monitoring of such references received from Legal Cell/PHQ in District/Unit, all the Addl. CPs/DCPs District/Unit shall evolve a system in each District/Unit by seeking periodical reports from their respective Legal Cell and ACPs Sub-Division/DIU/Special Staff etc. for reviewing the progress of such references on weekly basis.”

8. Reference has also been made to Circular bearing No. 28/2011 issued by the Commissioner of Police, PHQ, Delhi regarding Monitoring of High Court cases, relevant excerpt wherefrom is extracted hereunder:-

“Quite often draft replies/affidavits are put up before senior officers for their signatures at the last moment when no scope is left to redraft it in consultation with the Standing Counsel etc. due to paucity of time. There are clear instructions in this regard that affidavits to be filed in the Hon'ble High Court/Supreme Court must be submitted in PHQ atleast 7 days in advance by an officer well conversant with the facts of the case for proper scrutiny by the senior officers before it is signed by the DCP/Hdqs. Time and again instructions have been issued that the affidavits shall be thoroughly examined at senior level in the Distt./Unit before they are sent to PHQ and SHO shall personally produce the affidavit in Court Cell(C&T Branch), PHQ alongwith the correctness certificate of the concerned Addl. CP/DCP. The Distt./Units Addl. CPs/DCPs shall personally monitor such cases and ensure that a responsible officer well conversant with the facts is always deputed to have the matter pursued in the Courts/PHQ. It is



also to be ensured that the draft affidavits are submitted to the PHQ duly vetted by the Govt. Counsel well in advance for proper action and signature on behalf of the Commissioner of Police, Delhi.

It is also be ensured that the Affidavit/Status Report are filed a week before the date already fixed for hearing unless some specific time/period is given. Sometimes, in the Status Report, there is no mention of the arrest/seizure memo which in law are required to be given to the accused immediately. In case the contents of the Status Report are of confidential nature and the disclosures of the same shall hamper the investigation of the case, the status report shall be filed in a sealed cover.

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...All concerned police officers must ensure their presence in the court, whenever summoned. SHOs shall ensure that court cases pertaining to their police stations are properly attended to. Pairvi/nodal officers, well acquainted with the facts of the case, shall constantly remain in touch with their Govt. Counsel to brief them and also to see to it that replies are filed in the court in time. All supervisory officers should ensure that courts do not get any opportunity for commenting adversely on the police working in any case due to laxity of an individual police officer.”

9. Inasmuch as Article 21 of the Constitution of India guarantees a right to personal liberty, which one cannot be deprived of except in accordance with procedure established by law, the personal liberty of an individual is sacrosanct and not something to be trifled with. Voicing its concern in this regard, the Supreme Court, in Siddharam Satlingappa Mhetre v. State of Maharashtra and Others reported as **(2011) 1 SCC 694**, has outlined the role of Courts in securing the personal liberty of the accused, while balancing it



with society's interest, in the following terms:-

“3. The society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests namely, on the one hand, the requirements of shielding the society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand absolute adherence of the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.

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93. ...The courts considering the bail application should try to maintain fine balance between the societal interest vis-à-vis personal liberty while adhering to the fundamental principle of criminal jurisprudence that the accused that the accused is presumed to be innocent till he is found guilty by the competent court.

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96. It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided.”

10. Suffice it to state that the Courts, being tasked with safeguarding of personal liberty of every individual in accordance with principles established by law, have a responsibility to evaluate all relevant factors before admitting



an accused to bail. The purpose behind the exercise however is likely to be defeated if the accused is led to languish in jail merely because the State does not make time-bound efforts to apprise the Courts of relevant factors through Status Reports. In the opinion of this Court, the issue is of paramount importance as it is the liberty of an individual as well as the interest of the society that is at stake, and the same requires urgent redressal.

11. *Mr. Harender K. Singh*, DCP (Legal), PHQ, Delhi and *Mr. Parminder*, DCP (Outer) have assured the Court today that all necessary steps would be taken so that no further default occurs in timely filing of the Status Reports containing material information about the facts of the case as well as the antecedents of the accused.

12. In view of the aforementioned Standing Orders and Circulars; the affidavits placed on record; and the assurance given on behalf of the State, no further orders are required to be passed in the present case.

(MANOJ KUMAR OHRI)
JUDGE

JANUARY 20, 2022/v