

CRR 446 of 2020
With
CRAN 1138 of 2020
(Via video conference)

In Re: An application under Section 482 of the Code of Criminal Procedure, 1973 filed for challenging the judgment and order dated 25.6.2019 passed by the learned Additional Sessions Judge, 2nd Court, Hooghly in Criminal Appeal No. 14 of 2018.

In the matter of : Amit Bapari

.....Petitioner

Mr. Aniket Mitra
Mr. Pradip Kumar Ghoshfor the Petitioner

Mr. Y.J. Dostoor, Ld. ASG ...for the Union of India

Mr. S.G.Mukherjee, Ld. PP
Mr. Arijit Ganguly ...for the State

The report which has been received from the Correctional Home authorities, reflects that the petitioner will serve out and complete his substantive sentence on 1st March, 2022 and if he is unable to deposit the fine, he can be detained for another ten days.

Report also reflects that presently, there is no safe home which has been earmarked by the State Government for individuals who have suffered a conviction under the Foreigners Act, served out the sentence and are yet to be deported or repatriated to their motherland. This process consumes time as a coordination is required between the State Government, Central Government and the country to which the convict belongs.

There are guidelines which incorporates regarding the medical facilities, supply of food and restricted movement to these

individuals who are supposed to be kept in the said home after the period of conviction is over.

The written instructions which have been submitted before this Court, reflects that the issue of construction of safe home is under consideration but due to Pandemic situation, the same could not be expedited by the Department of State Government responsible for the same. Presently, it has been submitted that within the compound of Dum Dum Correctional Home, a property has been earmarked where persons who have served out the sentence under the Foreigners Act, are kept with the facilities which have been advised by the Central Government and the State Government. The same does not reflect a very happy picture for person who have served out the sentence. However, till date, no arrangements are there outside the campus of the Correctional Home, there is no alternative remedy available also, as has been submitted on behalf of the State.

In view of the aforesaid, I direct the Principal Secretary, Department of Correctional Administration, Government of West Bengal to immediately take steps for completing the process of building up a safe home preferably by 28th February, 2023.

All efforts must be taken in view of the fact that nationals of foreign country after serving out their sentences, are being hosted in our country and this detention is only for preparation of the Government records for deporting or repatriating them to their own motherland. It is reiterated that they are not serving out the sentence at this point of time which they have already served out pursuant to the judgment and order of conviction and sentence in

a criminal case. They must be treated with a human face during this period when they have served out the sentence.

The Chief Secretary, Government of West Bengal is directed to monitor so that within the time schedule, the safe home is completed as directed above.

As in the instant case, the records submitted by the Jail authority, reflect that the petitioner will complete his substantive sentence on 1st March, 2022 and the default sentence within another ten days, I am not willing to release the petitioner which will, at this stage, complicate the issue of release which is to be completed within three to four days.

The petitioner after serving out the sentence which would be over either on 1st March, 2022 or after ten days thereafter (if the fine is not paid) should be shifted to the area which has been earmarked as a safe human within the campus of the Correctional Home.

Needless to state that the authorities, in the meantime, should expedite the process of repatriation of the petitioner to his motherland.

With the aforesaid observations, the revisional application being CRR 446 of 2020 is disposed of.

Pending applications, if any, are consequently, disposed of.

Interim order, if any, is hereby vacated.

The learned Registrar General, High Court, Calcutta is directed to communicate this order to the Chief Secretary, Government of West Bengal and the Principal Secretary, Department of Correctional Administration, Government of West

Bengal by 26th February, 2022 so that effective steps can be taken by the Government of West Bengal.

The written instruction submitted by the learned Public Prosecutor, High Court, Calcutta, be kept with the record.

The Department is directed to send the lower court records to the learned court below.

All parties are to act on the server copy of this order, duly obtained from the official website of this Court.

(Tirthankar Ghosh, J.)