**IN THE HON’BLE SUPREME COURT OF INDIA**

**ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (CIVIL) NO. OF 2020**

**[UNDER ARTICLE 32 OF THE CONSTITTUTION OF INDIA]**

**(IN THE MATTER OF Public Interest Litigation)**

mala

**IN THE MATTER OF:**

AMIT SAHNI .....Petitioner

-Versus-

Union of India & Ors ....Respondents

**PAPER BOOK**

**[FOR DETAILED INDEX KINDLY SEE INSIDE]**

**WITH**

|  |  |
| --- | --- |
| **IA No\_\_\_\_\_\_\_\_ OF 2020:** | **APPLICATION SEEKING Permission to Appear and Argue in Person** |

**PETITIONER-IN-PERSON:** AMIT SAHNI

**synopsis and list of dates**

That the instant Public Interest Litigation (PIL) by way of Writ Petition has been preferred before this Hon’ble Court under Article 32 of the Constitution of India, inter-alia, seeking urgent kind indulgence of this Hon’ble Court for issuing appropriate directions to consider cases of Prisoners above 50 years of age as well as those prisoners, who are having ailments viz persons with pre-existing medical conditions (such as high blood pressure, heart disease, lung disease, cancer or diabetes) for releasing such prisoners on “Emergency Parole or Interim Bail” during the crisis of Corona Virus, in order to contain the spread of COVID-19.

*“It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.”* ***- Nelson Mandela***

As per website of World Health Organization (WHO), the certain category of persons can be severely affected by the COVID-19, as under

“……older persons and persons with pre-existing medical conditions (such as high blood pressure, heart disease, lung disease, cancer or diabetes)  appear to develop serious illness more often than others.”

In order to avoid the unnecessary burden on Heath Care Stystem, the Government of India had issued Office Memorandum whereby it directed to grant Commuted leave to those officials who are above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal diseases and other life threatening illnesses without production of medical certificate.

Further this Hon’ble Court while dealing with the issue to decongest Jails of the Country passed several directions in Suo Moto Writ Petition (Civil) No. 1/2020 vide order dated 23-03-2020 and whereby several directions were issued by this Hon’ble Court to decongest Jails in certain category of prisoners. However the issue of vulnerability of Corona Virus in certain certain category of persons was not brought to the notice of this Hon’ble Court.

By way of the present petition, the Petitioner craves the indulgence of this Hon’ble Court to direct the Respondents to consdier all prisoners above 50 years of age particularly those suffering from diabetes, Respiratory Problems, Renal diseases and other life threatening as mentieond in the Office Memorandum issued by the Government of India.

Hence, in the aforesaid peculiar facts and circumstances, the kind intervention of this Hon’ble Court is very much warranted urgently in the interest of justice, equity and good conscience. In order to elucidate the *factum probandum* of the case in details, a chronological list of dates is depicted as under -

LIST OF DATES

|  |  |
| --- | --- |
|  |  |
|  | The Petitioner is a law abiding and peace loving citizen of India and an Advocate practicing before this Hon’bleCourt and before various other Courts/ Commissions/ Tribunals etc. located in and outside Delhi. The petitioner is enrolled with the Bar Council of Delhi (BCD) and is also a member of Supreme Court Bar Association (SCBA). |
| 20-03-2020 | Ministry of Personal, Public Grievance and Pensions, Department of Personnel and Training. Govt. of India issued Office Memorandum (OM), whereby it gave relaxation to those officials, who wish to self-quarantine, as a preventive measure. Vide this OM, the Government relaxed Central Civil Service (Leave) Rules, 1972 and directed to grant Commuted Leave without production of medical certificate to those officials, who are above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal diseases and other life threatening illnesses.  |
| 23-03-2020 | This Hon’ble Court also took up the issue to decongest Jails in the Country and passed several directions to release undertails prisoners and this Hon’ble Court further directed to constitute State Level Committees for considering the case of Prisoners for releasing on parole/interim bail. Since the issue of vulternability of persons above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal **E**diseases and other life threatening illnesses, was not brought to the notice of this Hon’ble Court, therefore no directions were passed by this Hon’ble Court.  |
|  |  |
|   | Thus, in the larger public interest, the humble Petitioner is seeking urgent kind indulgence of this Hon’ble Court to direct the respondents to consider for granting Emergency Parole to the cases of all prisoners above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal diseases and other life threatening illnesses, as such persons can be severely affected as per the contents published by the World Health Organization (WHO) and appropriately considered by the Government of India while issuing aforesaid Office Memorandum dated 20-03-2020.  |
| 30.03.2020 | Hence, the humble Petitioner has preferred the instant Writ Petition for the kind indulgence of this Hon’ble Court in the larger interest of Prisoners lodged in Jails. |

**IN THE SUPREME COURT OF INDIA**

**ORIGINAL CIVIL JURISDICTION**

**(UNDER ARTICLE 32 OF THE CONSTITTUTION OF INDIA)**

**WRIT PETITION (CIVIL) NO. OF 2020**

**(IN THE MATTER OF Public Interest Litigation)**

**IN THE MATTER OF:**

**AMIT SAHNI,**

Advocate

D-17, Lower Ground Floor,

Greater Kailash Enclave Part 2,

New Delhi-110048 Petitioner

VERSUS

1. Union of India

Ministry of Home Affairs

Through itsJt. Secretary,

North Block

 New Delhi 110001 Respondent No.1

1. State of Rajasthan

Through its Secretary

Department of Home Affairs

Jaipur Rajasthan Respondent No. 2

1. State of Gujrat

Through its Secretary

Department of Home Affairs

Gandhi Nagar, Gujrat Respondent No 3

1. State of Maharashtra

Through its Secretary

Department of Home Affairs

Mumbai Maharashtra Respondent No 4

1. State of Haryana

Through its Secretary

Department of Home Affairs

Chandigarh Respondent No 5

1. State of Himachal Pradesh

Through its Secretary

Department of Home Affairs

Shimla, Himachal Pradesh Respondent No 6

1. State of Uttrakhand

Through its Secretary

Department of Home Affairs

Dehradun, Uttrakhand Respondent No 7

1. State of Uttar Pradesh

Through its Secretary

Department of Home Affairs

Lucknow, Uttar Pradesh Respondent No 8

1. State of Bihar

Through its Secretary

Department of Home Affairs

Patna, Bihar Respondent No 9

1. State of West Bengal

Through its Secretary

Department of Home Affai

Kolkata, West Bengal Respondent No 10

1. State of Punjab

Through its Secretary

Department of Home Affairs

Chandigarh Punjab Respondent No 11

1. State of Jammu and Kashmir

Through its Secretary

Department of Home Affairs

Sri Nagar, Jammu and Kashmir Respondent No 12

1. State of Jharkhand

Through its Secretary

Department of Home Affairs

Ranchi Jharkhand Respondent No 13

1. State of Chattisgarh

Through its Secretary

Department of Home Affairs

Raipur, Chattisgarh Respondent No 14

1. State of Odisha

Through its Secretary

Department of Home Affairs

Bhubaneswar, Odisha Respondent No 15

1. State of Assam

Through its Secretary

Department of Home Affairs

Dispur, Assam Respondent No 16

1. State of Arunachal Pradesh

Through its Secretary

Department of Home Affairs

Itanagar Arunachal Pradesh Respondent No 17

1. State of Manipur

Through its Secretary

Department of Home Affairs

Imphal Manipur Respondent No 18

1. State of Nagaland

Through its Secretary

Department of Home Affairs

Kohima Nagaland Respondent No 19

1. State of Sikkim

Through its Secretary

Department of Home Affairs

Gangtok, Sikkim Respondent No 20

1. State of Tripura

Through its Secretary

Department of Home Affairs

Agartala, Tripura Respondent No 21

1. State of Meghalya

Through its Secretary

Department of Home Affairs

Shillong, Meghalya Respondent No 22

1. State of Andhra Pradesh

Through its Secretary

Department of Home Affairs

Hyderabad Respondent No 23

1. State of Tamil Nadu

Through its Secretary

Department of Home Affairs

Chennai, Tamil Nadu Respondent No 24

1. State of Kerala

Through its Secretary

Department of Home Affairs

Thiruvanathpuram, Kerala Respondent No 25

1. State of Karnataka

Through its Secretary

Department of Home Affairs

Bengaluru, Karnataka Respondent No 26

1. State of Goa

Through its Secretary

Department of Home Affairs

Pana ji, Goa Respondent No 27

1. State of Telengana

Through its Secretary

Department of Home Affairs

Hyderabad, Telengana Respondent No 28

1. State of Madhya Pradesh

Through its Secretary

Department of Home Affairs,

Bhopal, Madhya Pradesh Respondent No 29

1. State of Mizoram

Through its Secretary

Department of Home Affairs,

Bhopal, Madhya Pradesh

Aizawal, Mizoram Respondent No 30

1. Revenue Secretary

Rajpath Marg, E Block, Central Secretariat,

New Delhi – 110011 Respondent No 31

1. The Chairperson, GST Council

GST Council Secretariat.

5th Floor, Tower II, Jeevan Bharti Building,

Janpath Road, Connaught Place,

New Delhi-110 001 Respondent No 32

1. The Ministry of Finance

Through

Its Secretary

Rajpath Marg, E Block, Central Secretariat,

New Delhi 110011 Respondent No 33

**A PUBLIC INTEREST LITIGATION BY WAY OF WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA, INTER-ALIA SEEKING URGENT ISSUANCE OF APPRORIATE WRIT, ORDER AND/OR DIRECTIONS TO THE RESPONDENT TO TO CONSIDER CASES OF PRISONERS ABOVE 50 YEARS OF AGE AS WELL AS THOSE PRISONERS, WHO ARE HAVING AILMENTS VIZ PERSONS WITH PRE-EXISTING MEDICAL CONDITIONS (SUCH AS HIGH BLOOD PRESSURE, HEART DISEASE, LUNG DISEASE, CANCER OR DIABETES) FOR RELEASING SUCH PRISONERS ON “EMERGENCY PAROLE OR INTERIM BAIL” DURING THE CRISIS OF CORONA VIRUS, IN ORDER TO CONTAIN THE SPREAD OF COVID-19, TILL THE PRESENT CORONAVIRUS LOCKDOWN CONTINUES**

To,

Hon'ble the Chief Justice of India and his Lordship's CompanionJustices of the Supreme Court of India

The humble petition of the Petitioner abovenamed

**MOST RESPECTFULLY SHOWETH:-**

1. That the instant Public Interest Litigation (PIL) by way of Writ Petition has been preferred before this Hon’ble Court under Article 32 of the Constitution of India, inter-alia, seeking urgent kind indulgence of this Hon’ble Court to direct the respondents to consider for granting Emergency Parole to the cases of all prisoners above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal diseases and other life threatening illnessesThat the Petitioner herein is an Advocate practicing before this Hon’ble Court and before various other courts/ commissions/ tribunals etc. located in and outside Delhi. The personal particulars of the Petitioner are as follows:

|  |  |  |
| --- | --- | --- |
| SN | Particulars | Information |
| 1. | Full Name | AMIT SAHNI |
| 2. | Complete Postal Address |  D-17, LGF, Greater Kailash Enclave-2, New Delhi-110048 |
| 3. | Email ID | officeofamitsahni@gmail.com |
| 4. | Phone No. | 9990513500 |
| 5. | Proof Regarding Personal Identification | True copies of Aadhar Card and SCBA Identity Card Enclosed |
| 6. | Occupation | Advocate |
| 7. | Annual Income |   |
| 8. | PAN Number |   |
| 9. | National Unique Identity Card No. |   |

1. That the petitioner is filing the present petition on his own and not at the instance of someone else. The litigation cost, including the advocate's fee and the travelling expenses of the lawyer, if any, are being borne by the petitioner himself.
2. That it is respectfully submitted that the Petitioner has not made any representation to the government due to paucity of time and also considering the urgency of the matter.
3. **BRIEF FACTS**: That the facts constituting the cause of action leading to the fling of the petition are as follows:
	1. The Petitioner is a law abiding and peace loving citizen of India and is an Advocate practicing before this Hon’ble Court and before various other Courts/ Commissions/ Tribunals etc. located in and outside Delhi. The petitioner is enrolled with the Bar Council of Delhi (BCD) and is also a member of Supreme Court Bar Association (SCBA).
	2. The Petitioner has filed several Writ Peititons before this HOn’ble Court and the Hon’ble High Court of Delhi raising various public issues.
	3. It is respectfully submitted that entire world is right now witnessing an unprecedented health emergency due to deadly Novel Coronavirus or COVID-19.
	4. As per website of World Health Organization (WHO), the certain category of persons can be seriously affected by the COVID-19, as under

“……older persons and persons with pre-existing medical conditions (such as high blood pressure, heart disease, lung disease, cancer or diabetes)  appear to develop serious illness more often than others.”

* 1. In order to avoid the unnecessary burden on Heath Care Stystem, the Government of India had issued Office Memorandum dated 20-03-2020, whereby it directed to grant Commuted leave to those officials who are above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal diseases and other life threatening illnesses without production of medical certificate. Copy of the Office Memorandum dated 20-03-2020 passed by Ministry of Personal, Public Grievance and Pensions, Department of Personnel and Training, Govt. of India is marked and annexed herewith as **Annexure P-1 (Page ).**
	2. Further this Hon’ble Court while dealing with the issue to decongest Jails of the Country passed several directions in Suo Moto Writ Petition (Civil) No. 1/2020 vide order dated 23-03-2020 and whereby several directions were issued by this Hon’ble Court to decongest Jails in certain category of prisoners. However the issue of vulnerability of Corona Virus in certain certain category of persons was not brought to the notice of this Hon’ble Court. Copy of Order dated 23-03-2020 passed in Suo Moto Writ Petition ( C ) No. 1/2020, is marked and annexed herewith as **Annexure P-2 (Page )**

* 1. By way of the present petition, the Petitioner craves the indulgence of this Hon’ble Court to direct the Respondents to consdier all prisoners above 50 years of age particularly those suffering from diabetes, Respiratory Problems, Renal diseases and other life threatening as mentieond in the Office Memorandum issued by the Government of India.
1. That the Petitioner has no personal interest involved in the instant Petition.
2. That there is no civil, criminal or revenue litigation involving the Petitioner, which has or could have so legal nexus with the issues involved in the instant Public Interest Litigation.
3. That due to the peculiar facts and circumstances of the instant case and considering the urgent requirement of indulgence sought, the Petitioner has not approached any Government Authority for reliefs sought in the present petition.
4. That the source of information of the facts pleaded in the instant PIL is the news items published in various news papers and news sites. It is submitted that the contents of the said news have been further verified by the Petitioner.
5. That the issue involved in the instant Writ Petition is pertaining to the prisoners above 50 years of age particularly those suffering from diabetes, Respiratory Problems, Renal diseases and other life threatening diseases.
6. That the Petitioner has not filed any other petition before this HOn’ble Court raising the same issue nor the same is filed before any any other court.
7. That in view of the above, the present petition has been filed inter-alia, on the following grounds:

**GROUNDS**

1. That urgent kind intervention of this Hon’ble Court is very much warranted towards prisoners lodged in various jails of the Country, who are above 50 years of age particularly those suffering from diabetes, Respiratory Problems, Renal diseases and other life threatening illness.
2. That as per website of World Health Organization (WHO), the certain category of persons can be seriously affected by the COVID-19, as under

“……older persons and persons with pre-existing medical conditions (such as high blood pressure, heart disease, lung disease, cancer or diabetes)  appear to develop serious illness more often than others.”

1. That the basic object of this Hon’ble Court to take up the issue of overcrowding in Jail in Suo Moto Writ Petition (C ) NO 1/2020 was to (i) to prevent spread of COVID-19 in Jails across the Country and (ii) to avoid deaths in Jail due to COVID-19.
2. That the issue of vulternability of certain category of persons, as mentioend in proceeding paras was not brought to this HOn’ble Court, therefore no such directions were issued directing the respondents to consider cases of convicts above 50 years of age and suffering from medical conditions.
3. That since the issue has been taken up by this Hon’ble Court and no directions are passed in reference to persons above 50 years of age and those having with medicial conditions, therefore the Respondents are not considering such persons for releasing them on parole/fulough/interim bail.
4. That the Respondents are nod dealing with the cases of prisoners above 50 years of age and those having with medicial conditions, in a fair and expeditious manner.
5. That considering the WHO directives and in order to avoid the unnecessary burden on Heath Care Stystem, the Government of India had issued Office Memorandum dated 20-03-2020, whereby it directed to grant Commuted leave to those officials who are above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal diseases and other life threatening illnesses without production of medical certificate.
6. That persons over 50 years of age are at more risk in case such persons are affected with COVID-19.
7. That persons with diabetes, respiratory problems, renal disease and other life threatening illness are also prone to COVID-19 and impact of the same can be severe in such persons.
8. Thus, in the larger public interest, the humble Petitioner is seeking kind indulgence of this Hon’ble Court.
9. That the instant Writ Petition deserves to be allowed in the interest of justice.
10. That the instant Writ Petition has been preferred seeking kind indulgence of this Hon’ble Court to redress the aforesaid grave injury being caused to the public at large due to aforesaid legislative vacuum and inaction on the part of the Respondents to consider the cases of Prisoners above 50 years or with the ailments as mentieond above.
11. That the humble Petitioner has not filed any other similar petition or application before this Hon’ble Court or before any other court of law, seeking same or similar relief.
12. That due to the present Coronavirus crisis situation, the humble Petitioner is unable to get his accompanying Affidavit attested or to deposit the requsite court fees alongwith the instant Petition. The humble Petitioner is praying for exemption from this Hon’ble Court in this regard, considering the urgency of the matter.
13. **Prayer:** In view of the above, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to –
14. Exempt the Petitioner from filing duly affirmed affidavit in the prevailing circumstances. The Petitioner undertakes that deficit court fees will be paid subsequently.
15. Issue appropriate Writ, Order or Direction to the Resopndent to direct the respondents to consider the cases of all prisoners above 50 years of age and have underlying conditions i.e. Diabetes, Respiratory Problems, High Blood Pressure, Renal diseases and other life threatening illnesses for granting Emergency Parole/Furlough for certain period in order to contain COVID-19.
16. Pass appropriate orders thereby directing all the respondents to immediately take up cases for all Prisoners above 50 years and the prisoners, who are suffering with Diabetes, Respiratory Problems, High Blood Pressure, Renal diseases and other life threatening illnesses for granting Emergency Parole/Furlough, as early as possible.
17. Pass any other order or direction as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE PETITIONER AS IS DUTY BOUND SHALL EVER PRAY.

Drawn and Filed by:

AMIT SAHNI

PETITIONER-IN-PERSON

NEW DELHI

Drawn on: 30.03.2020

FILED ON: 30.03.2020

**IN THE SUPREME COURT OF INDIA**

**[CIVIL ORIGINAL JURISDICTION]**

**IA No. \_\_\_\_\_\_\_\_ of 2020**

**IN**

**WRIT PETITION (CIVIL) NO. /2020**

**PUBLIC INTEREST LITIGATION**

**IN THE MATTER OF:**

AMIT SAHNI … PETITIONER

VERSUS

UNION OF INDIA & ORS … RESPONDENTS

**AFFIDAVIT**

I, Amit Sahni Advocate S/o Late Sh. Harbans Lal Sahni R/o D-17, LGF, Greater Kailash Enclave -2, New Delhi-110048, do hereby solemnly affirm and state as follows:-

1. That I am the Petitioner in the aforesaid matter and am conversant with the facts and circumstances of the case and am competent to swear this affidavit.
2. That the contents of the writ petition from para **1** to **14** and page **1** to **12** and the accompanying application are true and correct to the best of my knowledge.
3. That the Annexures are true copy of their originals.
4. That the Petitioner has no personal gain, private motive or oblique reason in filing the PIL.

**DEPONENT**

**VERIFICATION**

I, the deponent above named do hereby verify that averments made in this affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom. Verified at New Delhi onthis 30th day of March 2020.

**DEPONENT**

**ANNEXURE P-1**

**F. No. 11013/9/2014- Estt (AIII)**

**Government of India**

**Ministry of Personal, Public Grievance and Pensions,**

**Department of Personnel and Training**

North Block, New Delhi-110001

Dated the 20th March 2020

**OFFICE MEMORANDUM**

**Sub:- Preventive measures to achieve “social distancing” to contain the spread of COVID-19 – Relaxation of CCS (Leave) Rules, 1972 regarding.**

The undersigned is directed to state that the leave sanctioning authorities were advised vide OM of even number dated 17th March 2020 to sanction leave to officials who wish to self-quarantine, as a preventive measure. In this regard, in relaxation of Central Civil Services (Leave) Rules, 1972, it has now been decided with the approval of competent authority to grant Commuted leave without production of medical certificate to those officials who are above 50 years of age and have underlying conditions i.e. diabetes, Respiratory Problems, Renal diseases and other life threatening illnesses for a period upto 4th April, 2020, so as to avoid unnecessary burden on the health care system.

2. These instructions shall be applicable to Ministries/Departments/attached and subordinate offices of Central Government. Similar instructions may be issued to Autonomous/Statutory Bodies.

Sd/-

Umesh Kumar Bhatia

Dy. Secretary to the Government of India

To

1. All the Ministers/Departments of the Government of India
2. PMO/Cabinet Secretariat
3. PS to MoS (PP)
4. PSO to Secretary (Personnel)
5. Sr. Technical Director, NIC, DoPT.

**ANNEXURE P-2**

ITEM NO.8 COURT NO.1 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

SUO MOTU WRIT PETITION (C) NO. 1/2020

IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS

(WITH IA No. 46086/2020 – FOR INTERVENTION/IMPLEADMENT AND IA No. 46091/2020 – FOR PERMISSION TO APPEAR AND ARGUE IN PERSON)

WITH W.P.(C) No. 450/2020 (PIL-W) (FOR ADMISSION)

W.P.(C) No. 445/2020 (PIL-W) (FOR ADMISSION and IA No.46113/2020-PERMISSION TO FILE LENGTHY LIST OF DATES)

W.P.(C) No. 466/2020 (PIL-W) (FOR ADMISSION and IA No.48124/2020-EX-PARTE AD-INTERIM RELIEF)

Date : 23-03-2020

These matters were called on for hearing today.

**CORAM :**

**HON'BLE THE CHIEF JUSTICE HON'BLE**

**MR. JUSTICE L. NAGESWARA RAO HON'BLE**

**MR. JUSTICE SURYA KANT**

COUNSEL FOR THE PARTIES

Mr. Tushar Mehta, SG Ms. Swati Ghildiyal, Adv. Mr. Ankur Talwar, Adv. Mr. G.S. Makkar, Adv. Mr. Raj Bahadur, Adv. Mr. B.V. Balaram Das, AOR Mr. Dushyant Dave, Sr. Adv. (Amicus Curiae) Dr. Monika Gusain, Adv. Mr. Nikhil Goel, AOR Mr. Suhaan Mukerji, Adv. Mr. Vishal Prasad, Adv. For M/s PLR Chambers & Co. Ms. Astha Sharma, Adv. With Mr. Ajay Chaudhuri, Resident Commissioner, Mizoram Mr. Raghvendra Kumar, Adv. Mr Narendra Kumar, AOR Mr. Milind Kumar, AOR 2 Mr. Vishal Meghwal, Adv. Mr. Jayanth Muthraj, Sr. Adv./AAG Mr. M. Yogesh Kanna, AOR Mr. S. Raja Rajeshwaran, Adv. Mr. Arun R. Pednekar, Adv. Mr. Hitesh Kumar Sharma, Adv. Ms. Mukti Chowdhary, AOR Ms. Ashima Mandla, Adv. Mr. Fuzail Ahmad Ayyubi, AOR Mr. Ibad Mushtaq, Adv. Mr. Vishal Tiwari, PIP Mr. Avijit Mani Tripathi, AOR Mr. V.G. Pragasam, AOR Mr. S. Prabu Ramasubramanian, Adv. Mr. K.V. Jagdishvaran, Adv. Ms. G. Indira, AOR Mr. Sachin Patil, Adv. Mr. Geo Joseph, Adv. Ms. Bansuri, AAG Dr. Monika Gusain, AOR With Mr. Jagjit Singh, IG Prisons (Haryana) Mr. P. Venkat Reddy, Adv. Mr. Prashant Tyagi, Adv. Mr. P. Srinivas Reddy, Adv. For M/s. Venkat Palwai Law Associates, AOR Mr. Tapesh Kumar Singh, AOR Mr. Aditya Pratap Singh, Adv. Mr. Ahinav Sekhri, Adv. Mr. Senthil Jagadeesan, AOR Mr. Ashok Kumar Singh, Adv. Mr. Hussain Mueen Farooq, Adv. Ms. Manju Jetley, AOR Mohd. Kamran Khan, Adv. Ms. Sudha, Adv. Mr. Ajeet Kumar Sharma, Adv. Mr. Vikas Mahjan, AAG Mr. Vinod Sharma, AOR Mr. G. N. Reddy, AOR 3 Mr. T. Vijaya Bhaskar Reddy, Adv. Mr. M. Shoeb Alam, AOR Mr. Keshav Mohan, Adv. Mr. Santosh Kumar - I, AOR Mr. A.P. Mayee, AOR Ms. K. Enatoli Sema, AOR Mr. G. Prakash, AOR Ms. Garima Prashad, AOR Mr. Avijit Mani Tripathi, AOR Mr. V.N. Raghupathy, AOR Mr. Pukhrambam Ramesh Kumar, AOR Mr. Fuzail Ahmad Ayyubi, AOR Mr. Shuvodeep Roy, AOR Mr. Sumeer Sodhi, AOR Ms. Uttara Babbar, AOR Mr. Vinay Arora, AOR Mr. Abhimanyu Tewari, AOR

UPON hearing the counsel the Court made the following

O R D E R

SUO MOTU WRIT PETITION (CIVIL) NO.1/2020

By an order dated 16.03.2020, this Court had issued notice to all the States and Union Territories, to show cause why directions should not be issued for dealing with the present health crisis arising out of Corona virus (COVID-19) with regard to Prisons and Remand Homes. Several States and UTs have filed their responses detailing measures and initiatives taken while dealing with Corona virus (COVID-19) in respect of persons detained in Prisons and Remand Homes.

States of Gujarat, Manipur, Meghalaya, Odisha and UTs of Dadar & Nagar Haveli, Daman & Diu, National Capital Territory of Delhi and Puducherry have not filed their responses. The State of Andhra Pradesh, Punjab, Tamil Nadu, Madhya Pradesh, Kerala, Himachal Pradesh and UT of Jammu & Kashmir, though have filed their responses with regard to the measures taken for prisons but have not submitted their response in relation to measures taken for juveniles in Remand Homes.

An overview of the responses reflects that considerable measures for protection of health and welfare of the prisoners to restrict the transmission of COVID-19 have been taken by the State Governments. These measures generally include creation of isolation wards, quarantine of new prisoners including prisoners of foreign nationality for a specific period, preliminary examination of prisoners for COVID-19, ensuring availability of medical assistance, entry points scanning of staff and other service providers, sanitisation and cleanliness exercise of prison campus and wards, supply of masks, barring or limiting of personal visit of visitors to prisoners, suspension of cultural and other group activities, awareness and training with regard to stoppage of transmission of COVID-19 and court hearings through video conferencing among others. Many states have also initiated the process of installing digital thermometers for the purpose of examination of the prisoners, staff and visitors. Some of the States have taken similar measures for Remand Homes as well.

In other significant measures the States of Bihar, Karnataka, Maharashtra, Uttar Pradesh, Tripura, Jharkhand, Goa, Kerala, Telangana and UTs of Jammu & Kashmir and Chandigarh have advised the prison authorities that visitors may be allowed to interact with prisoners only through video calling or telephonic call. States of Goa, Kerala, Telangana, Karnataka and Haryana have adopted screening of prisoners returning from parole to prevent possible transmission.

State of Uttar Pradesh has constituted 'COVID-19 Special Task Force' in all 71 prisons comprising of the Superintendent, the Jailor, Circle Officer/Deputy Jailor, Medical Officer and One member of para-medical staff to monitor the prevention of transmission of infection.

Importantly, Rajasthan and Jharkhand have taken measures to decongest the prison by transferring prisoners from congested prisons to other prisons where the number of prisoners is low. The State of Punjab has directed to identify places in and around the prison, which can be used as a temporary prison in case if there is an outbreak of the virus.

The State of Haryana has directed prisons to prepare blockwise time table relating to food and other services for prevention of overcrowding. Andhra Pradesh, Uttarakhand, Punjab and Maharashtra and UT of Ladakh have identified special groups of prisoners, which are more vulnerable such as old age prisoners with respiratory diseases etc. to infections for special focus and scrutiny.

Looking into the possible threat of transmission and fatal consequences, it is necessary that prisons must ensure maximum possible distancing among the prisoners including undertrials.

Taking into consideration the possibility of outside transmission, we direct that the physical presence of all the undertrial prisoners before the Courts must be stopped forthwith and recourse to video conferencing must be taken for all purposes. Also, the transfer of prisoners from one prison to another for routine reasons must not be resorted except for decongestion to ensure social distancing and medical assistance to an ill prisoner. Also, there should not be any delay in shifting sick person to a Nodal Medical Institution in case of any possibility of infection is seen.

We also direct that prison specific readiness and response plans must be developed in consultation with medical experts. “Interim guidance on Scaling-up COVID-19 Outbreak in Readiness and Response Operations in camps and camp like settings” jointly developed by the International Federation of Red Cross and Red Crescent (IFRC), International Organisation for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR) and World Health Organisation (WHO), published by Inter-Agency Standing Committee of United Nations on 17 March, 2020 may be taken into consideration for similar circumstances. A monitoring team must be set up at the state level to ensure that the directives issued with regard to prison and remand homes are being complied with scrupulously.

The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID – 19).

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled.

We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.

The Undertrial Review Committee contemplated by this Court In re Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700, shall meet every week and take such decision in consultation with the 8 concerned authority as per the said judgment.

The High Powered Committee shall take into account the directions contained in para no.11 in Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273.

Some States/Union Territories who have not filed responses may file the same within three weeks from today. List the matter after three weeks.

WRIT PETITION (CIVIL) NOS.450/2020, 445/2020 AND 466/2020

Learned counsel appearing for the petitioners prays for withdrawal of the instant writ petitions with liberty to approach the concerned Ministries, Union of India, New Delhi.

Prayer is allowed.

Copies of these writ petitions shall be served upon Mr. Tushar Mehta, learned Solicitor General appearing for the Union of India and they shall be treated as representations. The concerned Ministries shall dispose of the representations in accordance with law.

It is made clear that if the concerned Ministries deem it appropriate, they may hear the petitioners.

The Writ Petitions are dismissed as withdrawn with the aforesaid liberty.

(Sanjay Kumar-II) (Mukesh Nasa) (Indu Kumari Pokhriyal) ASTT. REGISTRAR-cum-PS COURT MASTER ASSISTANT REGISTRAR

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

# IA No \_\_\_\_\_\_ of 2020

IN

# WRIT PETITION (CIVIL) NO. OF 2020

**IN THE MATTER OF:**

AMIT SAHNI … PETITIONER

VERSUS

UNION OF INDIA & ORS … RESPONDENTS

**APPLICATION FOR SEEKING PERMISSION TO APPEAR AND ARGUE IN PERSON**

**MOST RESPECTFULLY SHOWETH:-**

1. That the Petitioner has filed the Writ Petition for seeking directions to the Respondents to direct the respondents to consider prisoners above 50 years and those with pre-existing medical conditions (such as high blood pressure, heart disease, lung disease, cancer or diabetes) for grant of Emergency Parole/Furlough for certain period to contain COVID-19.
2. That the Petitioner is an Advocate by Profession and has filed several petitions before the Hon’ble High Court of Delhi and before this Hon’ble Court in public spirit and as such the Applicant can appear and argue in person before this Hon’ble Court.
3. That the Petitioner has a good prima facie case to succeed in the same.
4. That the present application is bonafide and the same may be allowed in the interest of justice.
5. That no prejudice shall be caused to any respondent in case the present application is allowed.

**PRAYER**

In the light of aforesaid, it is most respectfully prayed to this Hon’ble Court that this Hon’ble Court may be pleased to

1. Permit the Petitioner/Applicant to appear and argue in person.
2. or pass any other or further order(s), which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.

**FILED BY:**

|  |  |  |
| --- | --- | --- |
| Date: 30-03-2020 |  | **(AMIT SAHNI)**ADVOCATEPetitioner in Person |

**SECTION:\_\_\_\_ (DELHI)**

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2020

**IN THE MATTER OF:-**

AMIT SAHNI … PETITIONER

VERSUS

UNION OF INDIA AND ORS …RESPONDENTS

**I N D E X**

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Particulars  | Copies  | C. Fees |
| 1. | List of Dates  | 1  |  |
| 2. | Writ Petition with affidavit | 1  |  |
| 3. | Annexure-P-1 to P-2 | 1  |  |
| 4. | Listing Proforma | 1  |  |
| 5. | App. for seeking permission from this Hon’ble Court to appear and argue in person.  | 1  |  |

**Filed By:**

|  |  |
| --- | --- |
| Filed On: 30-03-2020 | **(AMIT SAHNI)**ADVOCATEPetitioner in Person |

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION (C) OF 2020

IN THE MATTER OF:

|  |  |
| --- | --- |
| AMIT SAHNI | …PETITIONER |
| -VERSUS- |
| UNION OF INDIA AND ORS | RESPONDENT |

**A F F I D A V I T O F U R G E N C Y**

I, Amit Sahni Advocate S/o Late Sh. Harbans Lal Sahni R/o D-17, LGF, Greater Kailash Enclave -2, New Delhi-110048, do hereby solemnly affirm and state as follows:-

1. That I am the Petitioner in the aforesaid matter and am conversant with the facts and circumstances of the case and am competent to swear this affidavit.
2. That the issue raised in the present Petition is urgent in nature as the same pertains to contain the effect of COVID-19 on prisoners above 50 years of age and prisoners with pre-existing medical conditions (such as high blood pressure, heart disease, lung disease, cancer or diabetes)  appear to develop serious illness more often than others persons.
3. That immediate steps are required to be taken for considering cases of prisoners falling in the above age category and those suffering from the ailments mentioned hereinabove for granting such prisoners Emergency Parole/Furlough in order to avoid the severe impact upon such prisoners.
4. That though this Hon’ble Court, considering the gravity of the situation, had taken up the issue of decongesting Jails considering Covid-19 Pandemic and issued several directions. However, the issue regarding adverse impact upon persons above 50 years and those suffering from aforesaid ailments, was not brought to the notice of this Hon’ble Court, therefore the same requires redressal at the earliest.

**DEPONENT**

**VERIFICATION**

I, the deponent above named do hereby verify that averments made in this affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom. Verified at New Delhi on this the **30** day of **March** 2020.

**DEPONENT**

COPY OF AADHAAR CARD AND SCBA CARD OF AMIT SAHNI ADVOCATE (PETITIONER IN PERSON)