

ITEM NO.6

COURT NO.9

SECTION PIL-W

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

WRIT PETITION(S)(CIVIL) NO(S). 406/2013

IN RE-INHUMAN CONDITIONS IN 1382 PRISONS

[MR. GAURAV AGRAWAL, SENIOR ADVOCATE, AMICUS CURIAE]

Date : 13-08-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SANDEEP MEHTA

By Post

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R-1

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 Mr. Rajendra Sahu, AOR
 Mr. Rishabh Sahu, Adv.
 Mr. C.L. Sahu, Adv.
 Mr. Gaurav Shukla, Adv.

**UPON hearing the counsel the court made the following
 O R D E R**

1. Mr. Gaurav Agrawal, learned Amicus Curiae has handed over a note for today's hearing and submits that the Bharatiya Nagarik Suraksha Sanhita, 2023¹ which has replaced the Code of Criminal Procedure, 1973 w.e.f. 01st July, 2024 has a provision under Section 479 relating to the 'Maximum period for which undertrial prisoner can be detained'. He particularly draws the attention of this Court to the first proviso of Section 479 to urge that a first-time offender (who has never been convicted of any offence in the past) is required to be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the

1 For short 'the BNSS'

maximum period of imprisonment specified for such an offence under a particular law. He submits that the said provision needs to be implemented at the earliest and it will help in addressing over-crowding in prisons.

2. Ms. Aishwarya Bhati, learned Additional Solicitor General submits that she may be granted time to obtain instructions from the Department and file an affidavit clarifying the aforesaid position and application of the said provision to all the undertrials across the country.

3. Limited to the aforesaid aspect, list for reporting instructions and/or filing an affidavit, if necessary, within one week on 23rd August, 2024.

4. Coming to the next issue, learned Amicus Curiae submits that 13 States have not filed the compliance affidavits as ordered by this Court.

5. In view of the submissions made hereinabove, following State Governments shall file their affidavits on or before 30th September 2024, if not already filed :

1. Bihar
2. Chhatisgarh
3. Delhi
4. Gujarat
5. Jharkhand
6. Kerala
7. Odisha
8. Punjab
9. Rajasthan
10. Tamil Nadu
11. Telangana
12. Uttar Pradesh
13. West Bengal

6. Learned Amicus Curiae further submits that having carefully perused the affidavits filed by the States of Andhra Pradesh, Assam, Haryana, Karnataka, Madhya Pradesh and Maharashtra, certain deficiencies have been noticed and directions are sought to ensure that the State Governments addressed the issues highlighted in the note for today's hearing.

7. The aforesaid State Governments shall carefully peruse the suggestions made by learned Amicus Curiae in the aforesaid note relating to prisons in particular Districts of the respective States and address the issues raised. Reply affidavit/compliance affidavit shall be filed on or before 30th September, 2024. In the event, compliances are to be made, then timelines thereof shall be specified in clear terms.

8. List on 22nd October, 2024, at the top of the Board.

(Nand Kishor)
Court Master (NSH)

(Geeta Ahuja)
Assistant Registrar-cum-PS