

IN THE HIGH COURT OF KARNATAKA, AT BENGALURU

W.P No. _____/2020

Between:

Shri. Amol Kale
S/o Age 39 years, Plot No. 3,
B-Wing Akshay Plaza,
Manik Colony Road, Chinchwad City, Pune,
Maharashtra ... Petitioner

And:

4. STATE OF KARNATAKA
Department of Home Affairs,
Room No. 222, II Floor,
Dr. Ambedkar Veedhi,
Bengaluru - 560 001
(Represented by its Additional
Chief Secretary ... Respondent No 1
5. State of Karnataka
Department of Prisons and Correctional Services
9, Seshadri Rd, Racecourse,
Gandhi Nagar,
Bengaluru - 560 009
(Represented by its Director General,
Prisons and Correctional Services) ... Respondent No 2
6. The Superintendent of Prison
Central Jail
BB Keri, Rajendra Nagar,
Mysore - 570001 ... Respondent No 3

MEMO FOR URGENCY

The Advocate for Petitioner does herewith submit as follows:

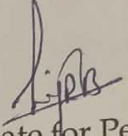
1. The Petitioner is in Mysore Central Jail, and is having symptoms like throat pain, body ache etc.

2. The Jail Authorities are not providing Covid test facilities to Prisoners with symptoms and Covid positive patients are increasing day by day in Central Prison, Mysuru.
3. The isolation cell for Quarantine is immediately next to the cell where Petitioner is kept.

Hence this writ of Mandamus is filed to direct the Respondents to take Petitioner back to Central Prison, Bengaluru for proper medical treatments and to provide proper treatments.

Place : Bengaluru

Date : ²⁰19.07.2020


Advocate for Petitioner

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

PRESENTATION FORM

W.P. No. /2020

Serial No.
 Advocate Sri Amruthesh.N.P.
 High Court
 # 15/1, 1st Floor,
 3rd Cross,
 Sampige Road,
 Malleshwaram
 Bengaluru - 560003

Bengaluru District

Between

Sri Anol Kale

And

State of Karnataka
and Ors.

Sl. No.	Description of Paper Presented	Court Fee Affixed On the paper
1.	On the Memo of <u>W.RIT</u> petition	.....
2.	On the Memo of Appeal	.....
3.	On Vakalath	.....
4.	On Certified Copies	.....
5.	On I.A. No. <u> </u> for	.....
6.	On Process Fee	.....
7.	On Copy Application	.....
8.	<u> </u>	.....
9.	<u> </u>	.....
10.	<u> </u>	.....

Number of Copies Furnished

Other side served

Presented by

Advocate for petitioner /

Received Paper as above

Appellant / Respondent

Advocate's Clerk

Date 20-07-2020

 Bengaluru

Receiving Clerk

Forms can be had at : The Bengaluru Advocates' Co-op. Society Ltd., Bengaluru - 9. Ph : 22217361

- 01 -

IN THE HIGH COURT OF KARNATAKA, AT BENGALURU

W.P No. _____/2020

ORIGINAL JURISDICTION

Between:

Shri. Amol Kale

...

Petitioner

And

State of Karnataka and Ors.

...

Respondents

SYNOPSIS

<u>Date of Events</u>	<u>DESCRIPTIONS</u>
21.05.2018	Petitioner was arrested in Cr. No. 45/2018, Upparpet Police Station.
02.06.2018	Petitioner was arrested in Cr. No. 221/2018 by Rajarajeshwarinagar Police.
16.06.2018	The Petitioner was kept in Judicial Custody in Central Jail, Bengaluru.
23.03.2019	The Petitioner was transferred to Central Jail, Mysuru
20.03.2020	Respondent No. 2 had cancelled the permission for visitors and advocates to meet the prisoners due to Covid 19 Pandemic in the Country.
14.04.2020	Legal Notice to the Respondent No. 1, 2 and 3 by e-mail by Petitioners Advocate.
26.05.2020	Letter through e-mail to the Respondent No. 3 by Petitioners Advocate.

11.07.2020	Letter through e-mail to the Respondent No. 1, 2 and 3 by Petitioners Advocate.
16.03.2020	Ordered passed by the Hon'ble Supreme Court in SUO MOTU WRIT PETITION (CIVIL) NO. 1/2020 in IN RE: CONTAGION OF COVID-19 VIRUS IN PRISONS, regarding measures which should be adopted for the medical assistance to the prisoners in all jails and the juveniles.

Brief Facts of the Case

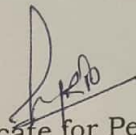
1. That the Petitioner herein is alleged accused person in Cr. No. 45 of 2018 registered with Upparpet Police station, Bengaluru and further in Cr. No. 221 of 2017 registered with Rajarajeshwari Nagar Police Station, Bengaluru.
2. That on 16.06.2018, the Petitioner was kept in Judicial Custody in Central Jail, Bengaluru. That on 28.03.2019 the Petitioner was transferred to Central Jail, Mysuru. Since then he is in Central Jail, Mysuru Judicial Custody as Under Trial Prisoner.
3. That as the Covid 19 Pandemic started spreading all over India since April, 2020, the Advocate for Petitioner sent a Legal Notice dated 14.04.2020, to the Respondent No. 1, 2 and 3 to take proper care of the health of Petitioner as there is high risk of being infected as Petitioner had already undergone surgery.
4. On 26.05.2020, Advocate for Petitioner send one more letter to Respondent No. 3 bringing to their notice about the conditions in Arthur Jail, Mumbai due to Corona Infection inside the Jail and to take necessary measures as such tragic situation may repeat in Karnataka.

- 03 -

5. On 11.07.2020, Advocate for Petitioner sent one more letter to Respondent No. 1, 2 and 3 to exercise due and diligent care ensuring medical and social safety to the Petitioner.
6. That no reply was given to any mail sent by Advocate for Petitioner by the Respondents.
7. That the Hon'ble Supreme Court in SUO MOTU WRIT PETITION (CIVIL) NO. 1/2020 in IN RE: CONTAGION OF COVID-19 VIRUS IN PRISONS, passed an order dated 16.03.2020 regarding measures which should be adopted for the medical assistance to the prisoners in all jails and the juveniles. Hence this Petition.

Place : Bengaluru

Date: ²⁸18.07.2020


Advocate for Petitioner

IN THE HIGH COURT OF KARNATAKA, AT BENGALURU

W.P No. _____/2020

ORIGINAL JURISDICTION

Between:

Shri. Amol Kale
S/o Age 39 years, Plot No. 3,
B-Wing Akshay Plaza,
Manik Colony Road, Chinchwad City, Pune,
Maharashtra ... Petitioner

And:

1. STATE OF KARNATAKA
Department of Home Affairs,
Room No.222, II Floor,
Dr. Ambedkar Veedhi,
Bengaluru - 560 001
(Represented by its Additional
Chief Secretary ... Respondent No 1
2. State of Karnataka
Department of Prisons and Correctional Services
9, Seshadri Rd, Racecourse,
Gandhi Nagar,
Bengaluru - 560 009
(Represented by its Director General,
Prisons and Correctional Services) ... Respondent No 2
3. The Superintendent of Prison
Central Jail
BB Keri, Rajendra Nagar,
Mysore - 570001 ... Respondent No 3

MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226, 227
OF THE CONSTITUTION OF INDIA

The Petitioner above named beg to submit as follows:

1. The address of the petitioner for purpose of notice and other correspondence is as shown in the cause title or that of his advocates Sri. Amruthesh N.P and Divya Balehittal, having office at No. 15/1, 1st Floor, 3rd Cross, Sampige Road, Malleshwaram, Bengaluru 560086. divya6dec@gmail.com Ph. 9448460811, 8971782008.
2. The address of the respondents for the purpose of summons and other correspondence is as shown in the cause title.
3. The Petitioner herein is alleged accused persons in Cr. No. 45 of 2018 registered with Upparpet Police station, Bengaluru and further in Cr. No. 221 of 2017 registered with Rajarajeshwari Nagar Police Station, Bengaluru and is now in Judicial Custody in Central Jail, Mysuru.
4. The present petition is filed to issue direction against Respondents to call for reports as to the necessary measures taken by the Respondents to maintain social distancing and medical assistance given to prisoners in Central Jail, Mysuru and other Jail in Karnataka in general and the petitioner in particular

FACTS OF THE CASE

5. It is further submitted that Petitioner was arrested in Cr. No. 45/2018, Upparpet Police Station on 21.05.2018 and Police have filed chargesheet and numbered as CC No. 19618/2018. Now the case is pending before XXXI ACMM, Bengaluru. Later the SIT Police have arrested the Petitioner on 02.06.2020 in Crime No. 221/2017 in Rajarajeshwarinagar Police Station. The SIT Police have filed Chargesheet and numbered as Spl. C. C no. 872/2018 and the case is pending before Prl. City Civil and Session Judge, Bengaluru (CCH 1). That on 16.06.2018, the Petitioner was kept in Judicial Custody in Central Jail,

Bengaluru. That on 23.03.2019 the Petitioner was transferred to Central Jail, Mysuru. Since then he is in Central Jail, Mysuru Judicial Custody as Under Trial Prisoner.

6. As Karnataka Control of Organized Crimes Act is invoked in the case against him, he will not be entitled to the bail on the basis of guidelines issued at the backdrop of Covid Pandemic and conducting of trial seems uncertain also due to Covid Pandemic. In such situation, the petitioner can do nothing except to wait.
7. That due to Covid 19 Pandemic, the Respondent No. 2 had cancelled the permission for visitors and advocates to meet the prisoners as precautionary measures since 20.03.2020.
8. That as the Covid 19 Pandemic started spreading all over India since April, 2020, the Advocate for Petitioner sent a Legal Notice dated 14.04.2020, to the Respondent No. 1, 2 and 3 to take proper care of the health of Petitioner as there is high risk of being infected as Petitioner had already undergone surgery. And in case the Petitioner suffers from corona virus, Petitioner and/or their family members will be entitled to sue the State as well as Respondents individually for criminal and civil remedies including but not limited to initiating legal proceedings against each one of them. Copy of the Legal notice dated 14.04.2020 and e-mail copy is produced herewith and marked as **Annexure A & A1**.
9. That in the month of May, the Advocate for Petitioner got to know through media that in Arthur Road Jail, Mumbai around 158 jail inmates were tested corona positive inside the prison which created a tensed environment among the prisoners as well as their family members. Therefore, the Advocate for Petitioner sent one more e-mail to Bangalore as well as Mysore Central Prisons on 26.05.2020 bringing to their notice about the

conditions in Arthur Jail and as such tragic situation may repeat in Karnataka, hence to take necessary measures as follows:

1. Lay down standard operating procedures for the jail staff - such as

a. The staff should change the dress while entering and going out.

b. Sanitizing sprays should be used at the gates/doors

c. Providing homeopathic medicine 'Arsenic Alba 30' be provided to the jail inmates which is recommended by 'Ayush'.

d. Fresh masks, sanitizers, soaps and hot drinking water should be

provided to the jail inmates as well as the staff.

2. Strict action may kindly be taken against the jail officers/staff/employees who do not follow the guidelines or fail to compel the prisoners to follow the guidelines/SOPs.

Copy of the Letter dated 26.05.2020 and e-mail copy is produced herewith and marked as **Annexure B & B1**.

10. That on 04.07.2020, the Advocates for the Petitioner came to know that 4 prisoners in Mysore Jail are tested Corona positive and few other prisoners are kept in same prison for Quarantine till the test reports are out.

11. As the Petitioner is kept in the immediate next cell of the prisoners who were tested positive due to which the Petitioner is in immense mental pressure as no proper measures or precautions are taken to protect other prisoners, the Advocate for Petitioner send one more mail to Respondents on 11.07.2020, to exercise due and diligent care ensuring medical and social safety to the Petitioner. Copy of the Letter dated 11.07.2020 and e-mail copy is produced herewith and marked as **Annexure C & C1**.

12. That as the Petitioner is kept in the cell next to the isolation cell, the Petitioner is undergoing fear and mental pressure every single minute and even the other prisoners are hesitating to talk or even walk next to petitioner with the fear of getting infected. This has immensely disturbed the mental health of the Petitioner.
13. The Hon'ble Supreme Court in SUO MOTU WRIT PETITION (CIVIL) NO. 1/2020 in IN RE: CONTAGION OF COVID-19 VIRUS IN PRISONS, on 16.03.2020 directed to issue notice to the Chief Secretaries/Administrators, Home Secretaries, Directors General of all the Prisons and Department of Social Welfare of all the States and the 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) in the country, and further to suggest immediate measures which should be adopted for the medical assistance to the prisoners in all jails and the juveniles lodged in the Remand Homes and for protection of their health and welfare. Copy of the Order dated 16.03.2020 is produced herewith as **Annexure D**. Hence this Petition.

GROUND

14. That the Advocate for Petitioner had sent 3 mails to Respondent No. 3 prison dated - 14.04.2020, 26.05.2020 and 11.07.2020 to take proper measures for the safety of health of Petitioners and other prisoners in Mysore Jail and to provide the details as to what measures are taken by the Jail authorities as safety measures in Jail for which the Advocate for Petitioners haven't got any reply to any of the mail which shows their carelessness and lethargic attitude.

15. That the Hon'ble Supreme Court has issued directions to all states, authorities, etc. inter alia regarding decongestion of prisons in the wake of the COVID-19 epidemic in Suo Motu Writ Petition (Civil) No.1/2020 In Re: Contagion Of COVID-19 Virus in Prisons. But the Respondent No. 3 has not taken any measures as such for decongestion.
16. That in the wake of the COVID-19, there is a great need for decongesting of overcrowded prisons, correction centers, observation homes and places of safety. While the Apex Court has issued directions to release the prisoners on certain terms and conditions, it is equally imperative to ensure property safety for those prisoners who are inside the prison.
17. That the Respondent no. 3 have no separate isolation cells for prisoners with Covid 19 symptoms and are Quarantined inside the regular cell itself which has strongly created a feeling of insecurity among the other prisoners inside the prison as well as high risk of them being infected.
18. That the Petitioner is kept in cell which is immediately next to the cell where some inmates are kept in quarantine. The Petitioner have problems like low Blood Pressure and had also met with an accident due to which his immunity level has reduced and has high chances of getting infected.
19. Opportunity to seek bail on the basis of Covid Pandemic is not available to the petitioner as Special Act is invoked against the petitioner whereas the conducting of trial also seems to be uncertain. In this background exposure to Corona transmission risk due to neglect on part of Respondents is nothing else but curtailment of fundamental rights of the petitioner and such other jail inmates. There must be some rays of hope for such jail inmates. The Respondents are duty bound to protect the fundamental rights of the petitioner and other jail inmates.

GROUND FOR INTERIM PRAYER

20. That the Petitioner is presently in Central Jail, Mysuru where there is only 1 isolation cell which is placed immediately next to the cell where the Petitioner is kept. The Petitioner is experiencing mild throat pain and body ache since 15.07.2020 and has informed the same to Jail authorities. The medical officer without undertaking Covid test, has given some medicines alleged to be some antibiotic to Petitioner which is very serious in nature. The Respondent No. 3 is drastically failing to provide safety measures and Covid test facilities to Petitioner as well as other prisoners. Because of the situation and seriousness in the jail condition arising in Mysuru Central Jail, the Petitioner shall be kept separately in isolation and further shall be shifted to Parappana Agrahara, Central Jail, Bengaluru. In view of the urgency, hence interim prayer may be granted.

PRAYER

Wherefore, it is most respectfully prayed, that this Hon'ble Court be pleased to issue;

- a) Issue a Writ of Mandamus or any other Writ, Order or direction in the nature of Mandamus or any other appropriate Writ, Order or direction thereby directing the Respondent authorities to submit compliance reports on the directions issued by the Hon'ble Supreme Court of India in the matter of SUO MOTU WRIT PETITION (CIVIL) NO. 1/2020 In Re: Contagion Of COVID-19 Virus In Prisons as well as the guidelines issued at the backdrop of the Covid 19 Pandemic
- b) Issue a Writ of Mandamus or any other Writ, Order or direction in the nature of Mandamus or any other appropriate Writ, Order or direction thereby directing the Respondent No. 2 and 3 to take all precautionary measures to protect the

Petitioner from Covid Pandemic by maintaining social distance and providing urgent and quality medical aid

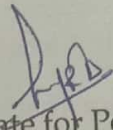
- c) Issue a Writ of Mandamus or any other Writ, Order or direction in the nature of Mandamus or any other appropriate Writ, Order or direction thereby directing the Respondent No. 2 and 3 to keep the Covid positive prisoners in isolation cell outside the main jail and to undergo his Covid test for all prisoners in the prison as well as provide necessary medicines such as Vitamin C tablets or Ayurvedic medicines etc, masks, sanitizers.
- d) Pass any such other further orders and / or directions inter alia to the Respondents as this Hon'ble Court deems fit for the protection of life and liberty of Petitioner in Respondent no. 3 jail.

INTERIM PRAYER

Pending disposal of this petition, this Hon'ble Court is respectfully prayed to direct the respondent No. 2 to shift the Petitioner back to Central Jail, Bengaluru forthwith as better safeguards are being followed in the said jail and better treatments will be provided if any adverse situation arises. Due to the urgency, the interim payer may be granted in the interest of Justice.

Place : Bengaluru

Date : 18.07.2020


Advocate for Petitioner

Address for Service:

Amruthesh.N.P.,
Advocate - High Court,
No. 15/1, 1st Floor,
3rd Cross, Sampige Road,
Malleswaram, Bangalore-560 003.
Email id - divya6dec@gmail.com
Phone No. 94484 60811.

IN THE HIGH COURT OF KARNATAKA, AT BENGALURU

W.P No. _____/2020

ORIGINAL JURISDICTION

Between:

Shri. Amol Kale

...

Petitioner

And

State of Karnataka and Ors.

...

Respondents

Affidavit

I, Umashankar F. Megundi, Advocate - High Court, No. 15/1, 1st Floor, 3rd Cross, Sampige Road, Malleshwaram, Bengaluru - 560003, do hereby solemnly affirm and state on oath as follows:-

1. I am the Advocate for Petitioner in the above case. I state that the Petitioner is now in Central Jail, Mysuru. Hence filing this affidavit on his behalf. I am well conversant with the facts and circumstances of the case.

2. I state that the statements made from para 1 to 14 of the accompanying Writ Petition are true and correct to the best of my knowledge, belief and information which I believe to be true.

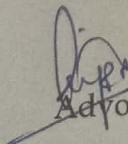
3. Annexures - 'A to D' are scanned true copies of their originals.

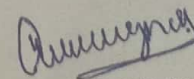
I, Umashankar F. Megundi, the deponent herein do hereby verify and state that whatever is stated above are true and correct.

Place : Bangalore

Date : ²⁰18.07.2020

Identified by me


Advocate


DEPONENT

VIRENDRA ICHALKRANJI KAR
DIVYA BALEHITTAL
ADVOCATE HIGH COURT

#814, 5th A main, Opp. Aurobindo School,
Mahalakshmi puram, Bengaluru - 560086
Mob - 8971782008

LEGAL NOTICE

To,

Date - 14.4.2020

1. The Jail Superintendent, Central Jail, Mysore
2. Additional Director General of Prisons, Bengaluru.
3. The Secretary, Department of Home, Vidhan Soudha, Bengaluru.

1. I am concerned for my client namely Amol Kale presently lodged in Central Prison, Mysore in the famous Gowri Lankesh Murder Case as well as some accused lodged in Central Jail, Bengaluru arrested in Spl. C. C no. 872/2018 before Principal City Civil and Session Judge, Bengaluru. However it is settled principle of law that unless declared guilty by the competent Court, every accused is innocent, a right which can't be taken away from my clients.

1. The Government has come out with certain schemes to release the undertrial prisoners and convicts in the wake of the Covid-19 pandemic. My client is aware of the fact that my client cannot take benefit from such schemes at present, notwithstanding the legal presumption of innocence. My client can't meet his relatives or advocates.

2. Under these circumstances, you are duty bound to protect the health of my clients. As my clients are already isolated, there is no chance that they will invite corona symptoms on their own. Unless the corona infections enter the jails through someone, i.e. the jail employees, officers, police etc, my clients will be completely safe. In the past, the Supreme Court had awarded compensation to the prisoners wherein a bomb attack was made on them from outside and the jail

authorities, despite probability of an attack having been intimated by the victims of the blast, decided to neglect the same. (State of Andhra Pradesh Vs Challa Ramkrishna Reddy and Others). Infections from Corona can be avoided if proper care is taken by you jointly and individually. Your failure to make proper arrangements of screening your employees, social distancing and testings may result in my clients getting infected of corona which will also violate their right to health and further Right to Life.

3. Therefore, by this letter, I am putting you all individually on strict notice to take utmost care to protect the life and health of my client who has already undergone surgery of his left or right elbow.
4. In case my client suffer from corona virus, my client and/or their family members will be entitled to sue the State as well as you individually for criminal and civil remedies including but not limited to initiating criminal proceedings against each one of you individually for culpable homicide and such other offences as well as claiming compensation from the State and from each one of you addressees individually and jointly for making my clients suffer by failure in your duties.
5. Therefore, by this letter, I am putting you on notice to take all necessary care, precautions to protect my client lodged in your jail.

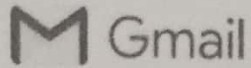
Yours truly

Virendra Icchalkaranjekar

Advocate

T1c
[Signature]

Annexure 'A'



- 15 -

Divya Balehittal <divya6dec@gmail.com>

Legal Notice - On Corona Virus - Amol Kale

1 message

Divya Balehittal <divya6dec@gmail.com>

14 April 2020 at 17:07

To: prstrans-home@karnataka.gov.in, home@karnataka.gov.in, adgp.prisons-kar@gov.in, cpmys.prisons-kar@gov.in


Cc: virendra ichalkarnikar <ssvirendra@gmail.com>


Sir/Madam,

Please find the attached Legal Notice by Advocates of accused Amol Kale in Gowri Lankesh case for measures to be taken from Pandemic Covid - 19.

Regards,

Divya Balehittal
Advocate

 legal notice - Amol Kale.doc
31K

TIC


VIRENDRA ICHALKRANJIKAR

AMRUTHESH N. P.

DIVYA BALEHITTAL

ADVOCATE HIGH COURT

#814, 5th A main, Opp. Aurobindo School, Mahalakshmpuram,

Bengaluru - 560086. Mob - 8971782008

To,

Date - 26.5.2020

1. The Jail Superintendent, Central Jail, Parappana Agrahara, Bengaluru
2. Additional Director General of Prisons, Bengaluru.
3. The Secretary, Department of Home, Vidhan Soudha, Bengaluru

We, the above named practising Advocates, representing jail inmates, of Parappana Agrahara Jail including the prisoners lodged in Shimoga, Tumkur Bellary and Mysore jails in Karnataka and Arthur jail in Mumbai.

We have come to notice certain shocking facts vis-a-vis the state of affairs of the Jails in Maharashtra. From the newspaper reports, it is clear that of the 184 jail inmates and staff members tested positive, 158 jail inmates were found to be Corona Positive. The Jail Superintendent of the Arthur Road, Mumbai is kept in isolation. It is also reported that the jail staff is running away from the duties to his native places by violating the lock-down violations.

The situation is serious not only in Arthur Road Jail, but almost everywhere in Maharashtra, we are also hearing that tests are not being conducted as there is a shortage of test-kits.

This tragic situation may repeat in Karnataka, which has lesser medical facilities in general as compared to Maharashtra. Therefore, we call upon you to take the following steps immediately,

1. Lay down standard operating procedures for the jail staff – such as
 - a. The staff should change the dress while entering and going out.
 - b. Sanitizing sprays should be used at the gates/doors
 - c. Providing homeopathic medicine 'Arsenic Alba 30' be provided to the jail inmates which is recommended by 'Ayush'.
 - d. Fresh masks, sanitizers, soaps and hot drinking water should be provided to the jail inmates as well as the staff.
2. Strict action may kindly be taken against the jail officers/staff/employees who do not follow the guidelines or fail to compel the prisoners to follow the guidelines/SOPs.

Any casualness/carelessness on your part may cost hundreds of lives of the prisoners who are solely dependent on you and thus may destroy thousands of families. The burden of this fatality will be upon you, which you may kindly note.

Tk

Yours truly

Virendra Icchalkaranjkar

Advocate

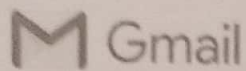
Links referred:

<https://indianexpress.com/article/cities/mumbai/three-new-covid-cases-in-parbhani-as-mumbais-arthur-road-jail-cop-family-travel-to-green-district-6412117/>

<https://www.indiatoday.in/india/story/mumbai-arthur-road-jail-coronavirus-cases-inmates-officials-quarantine-1676497-2020-05-10>

<https://mumbaimirror.indiatimes.com/mumbai/other/hc-to-hear-pils-for-safety-of-arthur-road-jail-inmates/articleshow/75782577.cms>

Tk
Dg



Annexure B1

-18-

Divya Balehittal <divya6dec@gmail.com>

Letter - to safeguard health and life of Jail Inmates

1 message

Divya Balehittal <divya6dec@gmail.com>


26 May 2020 at 23:30

To: prstrans-home@karnataka.gov.in, home@karnataka.gov.in, adgp.prisons-kar@gov.in, cpmys.prisons-kar@gov.in

Sir/Madam,

Please find the attached Letter by Advocates of accused in Gowri Lankesh case to take necessary measures to safeguard health and life of Jail Inmates from Pandemic Covid - 19.

Regards,

Divya Balehittal
Advocate Letter to take precautionary measures - Covid 19 Pandemic.doc
34KTt
Praveen

AMRUTHESH N. P.
VIRENDRA ICHALKRANJIKAR
DIVYA BALEHITTAL
ADVOCATE HIGH COURT

#814, 5th A main, Opp. Aurobindo School, Mahalakshmpuram,
Bengaluru - 560086. Mob - 8971782008

To,

Date - 11.7.2020

1. The Jail Superintendent, Central Jail, Mysore
2. Additional Director General of Prisons, Bengaluru.
3. The Secretary, Department of Home, Vidhan Soudha, Bengaluru.

Respected Sir,

Sub: Corona infection in jails in respect of our client Amol Kale
UTP No. 13982.

Ref: 1) Email dated 14.04.2020
2) Email dated 26.05.2020

1. We are concerned for our client, Amol Kale lodged in Central Jail, Mysuru in the famous Gowri Lankesh Murder Case who is now in Judicial Custody in Mysore Central Jail.
2. In the process, through reliable sources, we came to know that 4 prisoners in Mysore Jail are tested CORONA POSITIVE and few other prisoners are kept in same prison for Quarantine till the test reports are out.
3. That my client is kept in the immediate next cell of the prisoners who were tested positive due to which my client is in immense mental pressure as no proper measures or precautions are taken to protect other prisoners.

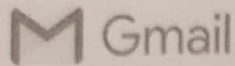
4. My client is also suffering from health issues like low Blood Pressure, and had met with an accident due to which his immunity level also going to be reduced.
5. Therefore, we have every reason to apprehend that due to your negligence, my client may suffer from corona infection which is detrimental to his life. In this connection, by our mail's dated 14.04.2020 and 26.05.2020, we have put you on strict notice to take necessary action to protect and safeguard the life and health of our client. We repeat the contents of the said letter even now
6. It is pertinent to note here that, Jails are the places of isolation and in other way my client has been quarantined as he is already in Jail. Thus, it is only because of your sheer negligence, carelessness and lethargic attitude that such infections are spreading inside the Jail.
7. It is also a matter of record that similar mail's was send to Central Jail, Bengaluru (Parappana Agrahara Jail) for which they have immediately responded regarding measures and action taken by them in regard of protection from Corona vires but unfortunately we haven't received any reply to either of the mail send by us to you. Therefore, we have reasons to believe that our emails are also completely neglected by you.
8. That our client from Central Jail, Bengaluru communicated with us that they are provided with masks and sanitizer which are also being replaced. On contrary, no such life saving facilities are extended by you to the Jail inmates which seems to be very serious.
9. Therefore, by this letter we are putting you on notice to exercise due and diligent care ensuring medical and social safety to our client. Your failure to respond may compel us to initiate legal action for which you will be personally held responsible.

Thus, request you to kindly take notice of the same and oblige.

Yours truly,

Amruthesh N. P
Advocate

TLC

Annexure - C1

Divya Balehittal <divya6dec@gmail.com>

- 21 -

Letter regarding Corona Virus Infection in Mysuru Jail

1 message

Divya Balehittal <divya6dec@gmail.com>

11 July 2020 at 12:56


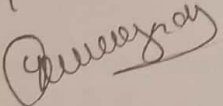
To: cpmys.prisons-kar@gov.in, adgp.prisons-kar@gov.in, home@karnataka.gov.in

Cc: virendra ichalkarnjekar <ssvirendra@gmail.com>, "Amruthesh N.P" <amruthesh1960@gmail.com>

Respected sir,

Please find the attached letter with regard to Corona infection in Mysuru Jail.

Regards,

Divya Balehittal
Advocate **Corona Infection in Jail - July - Mysore.doc**
35KTlc


22

Annexure-D

ITEM NO.1

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
R E C O R D O F P R O C E E D I N G S

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

IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS

Petitioner(s)

VERSUS

Respondent(s)

(FOR ADMISSION)

Date : 16-03-2020 This petition was taken up today.
CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. K.K. Venugopal, Ld. Attorney General
Mr. Tushar Mehta, Ld. SG
Ms. Swati Ghildiyal, Adv.
Mr. Ankur, Adv.

Mr. Dushyant Dave, Sr. Adv. (A.C.)

By Courts Motion, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

In the last few weeks, the world has witnessed the spread of a communicable respiratory disease called the Novel Corona Virus (COVID-19), caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The outbreak was first identified in Wuhan, Hubei, China in December 2019. On 11th March 2020, the World Health Organization declared COVID-19 as a pandemic after noting that COVID-19 has increased 13-fold in countries other than China. Some State Governments has also declared COVID-19 an epidemic, in order to invoke the emergency provisions of the Epidemic Diseases Act, 1897. Currently, over 110 countries have detected persons suffering from COVID-19 in their territories, and approximately 1,67,291 cases of COVID-19 have been

Signature Not Verified
Digitally signed by
SANJAY KUMAR
Date: 2020.03.16
14:50:37 IST
Reason: —

identified across the world, as of now.

In India, 107 persons have contracted COVID-19. According to some studies, the number of COVID-19 cases in India has doubled within a week, and if prompt measures are not taken, the situation might worsen. Medical experts have noted that there are four stages of the contagion of the COVID-19 virus, which are *firstly*, entry of persons carrying the COVID-19 virus into Indian territory, thereby, importing the COVID-19 into India, *secondly*, local spread i.e. spread of the COVID-19 virus from the carrier to his/her kith and kin, *thirdly*, community spread i.e. spread of the COVID-19 virus to the communities in which a carrier of the COVID-19 virus is resident and finally, the epidemic level. It has been stated by medical professionals that whereas many nations have reached the epidemic level (which is the fourth and final stage), India is still at the second stage where the spread is at the local level. Therefore, if prompt measures are taken, it is believed that COVID-19 can be prevented from reaching the third and fourth stages or in any event, minimise the damage. The Government of India and State Governments are taking all possible steps to curb the contagion of the COVID-19 virus.

The Government of India and the respective State Government have also issued several advisories to the citizens, regarding the prevention of the further spread of the COVID-19 virus. One of the suggestions made by the Government of India is to maintain social distancing, which is considered to be the most effective way of stopping the contagion of COVID-19 virus.

While the Government of India advises that social distancing must be maintained to prevent the spread of COVID-19 virus, the bitter truth is that our

prisons are overcrowded, making it difficult for the prisoners to maintain social distancing. There are 1339 prisons in this country, and approximately 4,66,084 inmates inhabit such prisons. According to the National Crime Records Bureau, the occupancy rate of Indian prisons is at 117.6%, and in states such as Uttar Pradesh and Sikkim, the occupancy rate is as high as 176.5% and 157.3% respectively. Like most other viral diseases, the susceptibility of COVID-19 is greater in over-crowded places, mass gatherings, etc. Studies indicate that contagious viruses such as COVID-19 virus proliferate in closed spaces such as prisons. Studies also establish that prison inmates are highly prone to contagious viruses. The rate of ingress and egress in prisons is very high, especially since persons (accused, convicts, detenues etc.) are brought to the prisons on a daily basis. Apart from them, several correctional officers and other prison staff enter the prisons regularly, and so do visitors (kith and kin of prisoners) and lawyers. Therefore, there is a high risk of transmission of COVID-19 virus to the prison inmates. For the reasons mentioned above, our prisons can become fertile breeding grounds for incubation of COVID-19.

We are of the opinion that there is an imminent need to take steps on an urgent basis to prevent the contagion of COVID-19 virus in our prisons. If prisoners are tested positive for the COVID-19 virus, immediate measures have to be taken for their quarantining and medical treatment. We are pleased to note that some State Governments and their Departments of Prisons have already taken preventive measures. For instance, the Director General of Prisons, Kerala has set up isolation cells within prisons across-Kerala. Those suffering with COVID-19 symptoms such as cold and

fever are being moved to these isolation cells. All the new inmates who will be admitted to the prisons in Kerala will be isolated in the isolation cells in the admissions block for six days before permitting their entry into the regular prison cells. Similarly, an isolation ward has been set up in the Tihar Jail, Delhi and all the 17,500 inmates of the said Jail were checked for COVID-19, and it was found that none displayed any symptoms relating to COVID-19. The authorities of the Tihar Jail have also decided that new inmates will be screened and put in different wards for three days. However, we do not have information about the measures taken by the other State Governments in their prisons to prevent the contagion of COVID-19.

For all the above reasons, we consider it appropriate to direct that notices be issued to the Chief Secretaries/Administrators, Home Secretaries, Directors General of all the Prisons and Department of Social Welfare of all the States and the 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) in the country, and further to suggest immediate measures which should be adopted for the medical assistance to the prisoners in all jails and the juveniles lodged in the Remand Homes and for protection of their health and welfare.

The respondents shall submit a reply in writing before 20th March, 2020. The reply shall contain the particulars of the steps being taken and the relevant data necessary for implementing the measures to prevent the possible spread of the Corona virus among the prisoners/juveniles.

The respondents shall further ensure that a responsible officer of their choice duly authorised to take decision in the matter shall be made available to

this Court on the next date of hearing i.e. 23rd March, 2020.

The respondents may first submit their respective written reply and shall appear in Court as and when called upon to do so. They shall submit their respective responses to this Court, learned Attorney General for India, learned Solicitor General of India, and the learned Amicus Curiae.

It is made clear that we may direct such number of parties to appear in the Court as may be found appropriate on all dates of hearing of the matter.

This order shall be communicated through the Advocates-on-Record of each State/Union Territory forthwith.

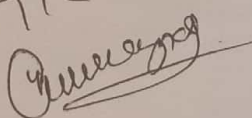
We appoint Mr. Dushyant Dave, learned Senior Counsel who is present today in the Court, as Amicus Curiae to assist the Court in the present matter.

The Registry is directed to serve the respondents by their emails.

List the matter on 23.03.2020.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

Tle


IN THE HIGH COURT OF KARNATAKA, AT BENGALURU

W.P No. _____/2020

Between:

Shri. Amol Kale

...

Petitioner

And

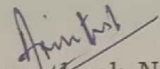
State of Karnataka and Ors.

...


Respondents

MEMO OF APPEARANCE

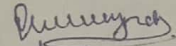
We, the undersigned advocates do hereby declare that we have been duly instructed by the petitioner to appear for him in this petition and to argue the same on his behalf.


Amruthesh N P

KAR/149/1987


Divya Balehittal

KAR/1948/2011


Umashantav Heguneli

10/07/2020

Advocate for Petitioner

Place : Bengaluru

Date : 18.07.2020

Address for Service:

Amruthesh.N.P.,
Advocate - High Court,
No. 15/1, 1st Floor,
3rd Cross, Sampige Road,
Malleswaram, Bangalore-560 003.
Email id - divya6dec@gmail.com
Phone No. 94484 60811.

IN THE HIGH COURT OF KARNATAKA, AT BENGALURU

W.P No. _____/2020

ORIGINAL JURISDICTION

Between:

Shri. Amol Kale

...

Petitioner

And

State of Karnataka and Ors.

...

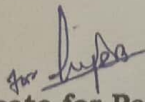
Respondents

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Place: Bangalore

Date: 20th 18.07.2020


Advocate for Petitioner

Amruthesh N. P