

S-5

IN THE HIGH COURT OF DELHI AT NEW DELHI

(5)

Date of Decision: 29.06.2020

W.P.(CRL) 986/2020 & CRL.M.A. Nos.8344-46/2020

CHIRAG MADAN

..... Petitioner

Through: Mr. Siddharth Luthra, Sr. Adv. with
Ms. Ravleen Sabharwal,
Mr. Chaitanya Madan, Mr. Sai
Krishna, Mr. Akshay Sehgal &
Mr. Saif Shams, Advs. along with
petitioner-in-person.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vikas Mahajan, CGSC with
Mr. Jatin Puniyani, GP for R-1/UOI.
Mr. Rahul Mehra, Standing Counsel
(Crl.) with Mr. Chaitanya Gosain,
Adv. for GNCTD/Delhi Police.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

D.N. PATEL, Chief Justice (Oral)

Proceedings of the matter have been conducted through video conferencing.

CRL.M.A. Nos.8345/2020 (exemption) & 8346/2020 (exemption)

Allowed, subject to just exceptions.

Both the applications stand disposed of.

1. This Public Interest Litigation has been preferred with the following prayers:-

"a. Allow the present petition and pass directions for supply of status reports/ report by the Jail Superintendent/ reply filed on behalf of the prosecution at the time hearing bail applications under section 437 CrPC, 438 CrPC and 439 CrPC before the Ld. Metropolitan Magistrates and Ld. Sessions Judges to accused/ counsel for the accused.

b. Pass any further order(s) as this Hon'ble Court may deem fit."

2. We have heard the learned counsel for the parties at length.
3. It is submitted by Mr.Siddharth Luthra, learned Senior Counsel appearing for the petitioner that in several cases, reports are being called from Jail Superintendents in bail matters. Though the same are being relied upon by the Courts, but the copies thereof are not being supplied to the accused. Learned Senior Counsel appearing for the petitioner, in this regard, has taken this Court to various annexures and pointed out matters where orders have been passed, dismissing the bail application preferred by the accused by relying upon the report given by Jail Superintendent.
4. We have heard Mr. Rahul Mehra, learned Standing Counsel (Crl.) appearing for the Government of NCT of Delhi, who submitted that there is no specific statement, looking to the orders which are annexed with this writ petition, to the effect that in spite of demand, the accused has not been supplied a copy of the report of the Jail Superintendent. It is further submitted by Mr. Mehra that, normally, there is no reason for not supplying the copy of the report given by the Jail Superintendent or even the report of

(7)

the Investigating Officer (I.O.), save and except in exceptional cases, where reasons are recorded in writing in the order. Learned Standing Counsel for the State also pointed out that normally, the report of the Jail Superintendent is given directly to the Court, such report may be regarding the medical condition as pointed out by the accused, or may be on the conduct of the accused, etc.

5. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that whenever the Court is relying upon a report of the Jail Superintendent, which is normally called by the order of the Court for a specific purpose on case to case basis, the copy of the same should be given to the accused, save and except in exceptional cases.

6. Ordinarily, as a general rule, it ought to be kept in mind by the Courts that whenever any report is called for from the Jail Superintendent and is given to the Court either directly or through APP, copy thereof should be given to the applicant of the bail application. Whenever such copy is not supplied to the applicant of the application under Code of Criminal Procedure, especially under Sections 437, 438 and 439 of the Code of Criminal Procedure, then reasons will be recorded by the Court in the order.

7. Every rule has its own exceptions and, depending upon the facts and circumstances of the case, there may be some cases where the report cannot be so supplied. However, as a general rule, a copy of the report given by the Jail Superintendent as well as the report given by the Investigating Officer should be supplied to the applicant so that accused can properly understand the reasons given therein and defend their case in the Court of law. This is a basic need for access to justice and for rendering justice to the public at

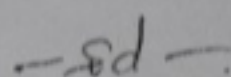
large.

8. It further appears from the facts of the case that as far as possible, the report of the Investigating Officer as well as of the Jail Superintendent should be given to the Court in advance. Similarly, copies of these reports should also be given to the accused/applicant in advance so that they can also defend their case effectively and efficiently in the Court of law.

9. With these observations, the writ petition is allowed and disposed of. The pending application also stands disposed of accordingly.

10. A copy of this order be sent to the Chief Secretary, Delhi Government; Director General (Prisons); District and Sessions Judge of all the District Courts; Member Secretary, Delhi State Legal Services Authority (DSLSA) and all the jail authorities. This order may be complied with forthwith.

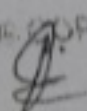

CHIEF JUSTICE


PRATEEK JALAN, J

JUNE 29, 2020

kks



TRUE COPY

EXAMINER