



CIRCULAR

Sub: Orders passed by the Hon'ble Supreme Court of India in M.A.No.2034 of 2022 in M.A.No.1849 of 2021 in S.L.P. (Crl)No.5191 of 2021, dated 21.03.2023 – Disproportionately large number of under-trial prisoners unable to comply with bail – Submitted – Reiteration of earlier circulars – Reg.

- Ref:
1. High Court's Circular in R.O.C.No.288-A/2010/F1, dated 25.05.2010
 2. High Court's Circular in R.O.C.No.288-A/2010/F1, dated 10.11.2010.
 3. High Court's Circular in R.O.C.No.288-A/2010/F1, dated 18.01.2013.
 4. High Court's Circular in R.O.C.No.288-A/2010/F1, dated 04.03.2013.
 5. Hon'ble Supreme Court of India's Order dated 21.03.2023 passed in M.A.No.2034 of 2022 in M.A.No.1849 of 2021 in SLP(Crl)No.5191 of 2021.

The High Court, Madras, upon considering the orders passed by the Hon'ble Supreme Court of India in M.A.No.2034 of 2022 in M.A.No.1849 of 2021 in SLP(Crl)No.5191 of 2021, dated 21.03.2023, has directed to reiterate the following instructions:-

1. The Monitoring Committee constituted by the Hon'ble the then Chief Justice, High Court, Madras in each of the Districts in the State of Tamil Nadu, in the year 2010, comprising of 1) the Principal District Judge/District Judge or the Principal Judge, City Civil Court, Chennai, as the case may be, 2) the District Collector, 3) the Commissioner of Police or the Superintendent of Police, as the case may be, and 4) the Public Prosecutor of the District concerned, and 5) Assistant Directors of Prosecution/ Deputy Directors of Prosecution of Directorate, of Prosecution, has to sit every month to review the following particulars and submit a detailed report to the High Court every month:

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- i) the pendency of criminal cases.
 - ii) status of cases of under-trial prisoners.
 - iii) the reasons for non-examination of witnesses by Assistant/Additional Public Prosecutors.
 - iv) the reasons for non-production of witnesses by the Police.
2. Periodical Meetings shall be convened by the District and Sessions Judges/Chief Judicial Magistrates with the Police Officers of the Districts for expediting the execution of the NBWs. The procedures contemplated under law shall be adopted for arriving at a decision in case of whereabouts of accused, against whom NBWs were issued, are not known.
3. The Public Prosecutors shall be directed to file a list of material witnesses, in case prosecution fails to produce the witnesses, with directions to file a petition to dispense with the examination of witnesses whose evidence would be similar to the one already adduced by many witnesses.
4. The Judicial Magistrates shall take necessary steps to reduce the under-trial prisoners on personal bonds as per the directions made in Hussainara Khatoon and others Vs. State of Bihar (AIR 1979 SC 1360) and the Trial Courts shall split up those cases in which warrants issued against a co-accused could not be executed for want of production of the accused, and go ahead with the trial as far as the accused in jail, who is awaiting the trial, is concerned, as per procedure contemplated under law and the Judgment of the Hon'ble Supreme Court in Hussian & Anr. Vs Union of India & Ors., reported in 2017 (5) SCC 702 (Circulated vide R.O.C.No.27873-A/2017/F1, dated 02.06.2017).
5. The Duty Counsel appointed by the respective Legal Services Authority shall give Counseling to those accused in jail, who are unable to offer surety out of poverty and arrange to file an application to relax the surety condition imposed on them.

6. The Chief Judicial Magistrates are directed to monitor the pendency of committal proceedings before Judicial Magistrates with directions to expedite those proceedings.
7. The Principal District Judges/District Judges/Chief Judicial Magistrates/Chief Metropolitan Magistrate, Chennai are directed to take immediate, positive steps to reduce the number of under-trial cases by posting the trial cases, more especially the under-trial cases, on a day-to-day basis without fail and monitoring the progress of the trial of the cases and disposing such cases as expeditiously as possible on priority basis, to ease congestion in jails/prisons.

The Principal District Judges/District Judges/Chief Judicial Magistrates/Chief Metropolitan Magistrate, Chennai are also directed to issue necessary instructions to the Subordinate Judicial Officers functioning in their respective Unit/Districts to take necessary immediate steps to reduce the number of under-trial cases in their respective Courts expeditiously.
8. The Chief Judicial Magistrates shall monitor the progress of the cases before various Magistrate Courts by carefully perusing the statements submitted by the Magistrates and bring to the notice of the High Court, if any lapse is noticed in examining all the witnesses brought by the Police Officer for examination on a particular day.
9. The Principal District Judge shall collect the details of the matters in which stay orders have been granted either by the High Court or by any other Court (excluding the Hon'ble Supreme Court) and forward the list of such matters to the Court concerned so that such Court may bestow its attention to dispose of those matters expeditiously.

10. The expeditious disposal of under-trial cases will be monitored by a District Level Task Force consisting of Principal District Judge and a top level Police Officer of the District.

As directed, the observation made by the Hon'ble Supreme Court in its Order dated 21.03.2023 (Copy enclosed), is highlighted that if orders are passed by Magistrates without following the principles laid down by the Hon'ble Supreme Court, the Judicial Work to be withdrawn and those Magistrates to be sent to Judicial Academy for upgradation of their skills for sometime and it is further directed that the principles enunciated by the Hon'ble Supreme Court in the above case with regard to regular bail would equally apply to anticipatory bail cases since anticipatory bail after all is one of the species of a bail.

The Monitoring Committee in each of the Districts constituted to reduce the under-trial cases is directed to regularly supervise the mandate laid down in the Judgment passed by the Hon'ble Supreme Court in Siddharth Vs. State of U.P. reported in (2021) 1 SCC 676, for strict compliance by the subordinate courts. A detailed report shall be submitted to the High Court every month, which in turn, shall be monitored by the High Court.

The aforesaid instructions shall be scrupulously adhered to.

High Court, Madras.

Dated: 12.04.2023

REGISTRAR GENERAL

To:

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| 1. All the Principal District Judges/District Judges in the State of Tamil Nadu. | } | |
| 2. The Principal Judge, City Civil Court, Chennai. | } | With a direction to |
| 3. The Chief Judge, Court of Small Causes, Chennai. | } | communicate this |
| 4. The Chief Judge, Puducherry. | } | Circular along with |
| 5. The District Judge, Karaikal. | } | enclosed copy of |
| 6. The District Judge-cum-Chief Judicial Magistrate, The Nilgiris. | } | Order to all the courts |
| | } | under your |
| | } | jurisdiction. |

7. The Director, Tamil Nadu State Judicial Academy, R.A.Puram, Chennai-28. (with a request to communicate the Circular along with enclosed copy of order to Regional centres in Coimbatore and Madurai.)
8. The Court Manager, High Court, Madras (with a request to communicate the Circular along with enclosed copy of Order to all the Court Managers in Tamil Nadu and Puducherry through e-mode.)
9. The Section Officer, "F" section, Madurai Bench of Madras High Court, Madurai.
10. The Record Keepers, A.D. Records, High Court, Madras & Madurai Bench of Madras High Court, Madurai.