

R. D. Upadhyay

Vs

State of A. P. and Others

Writ Petition (C) No. 559 of 1994

(Kuldip Singh, Faizanuddin JJ)

19.03.1996

ORDER

1. This public interest petition under Article 32 of the Constitution of India has been filed by Mr. R. D. Upadhyay, an Advocate of this Court. It has been highlighted in the petition that a large number of undertrial prisoners have been languishing in Tihar Jail without trial for a very long period. This Court by the order dated 7-11-1994 directed the Superintendent Tihar Jail to file an affidavit giving a list of undertrial inmates of the jail who are confined for over a period of one year. Shri Tarsem Kumar, Superintendent, Central Jail, Tihar has filed an affidavit dated 9-2-1996 and has annexed a list giving jailwise break-up of undertrials who have spent more than one year at Central Jail, Tihar, Delhi as on 25-1-1996. The list indicates that there are undertrial prisoners who are in jail for a period ranging from one year to 11 years. Mr. Srivastava, learned counsel appearing for the NCT, Delhi has categorised the list of undertrials offencewise. The total cases categorised by Mr. Srivastava have come to 1930. The list is as under :

#-----S. No. Name of Offence Total Cases-----
----- 1. Murder 880 2. Attempt to Murder 89 3. N.D.P.S.
264 4. Rape 137 5. Kidnapping 68 6. Dacoity and Robbery 188 7. TADA 122 8.
Dowry and Section 304 IPC 74 9. Theft 5510. Cheating 1011. Arms Act 1812.
Counterfeiting 613. Official Secrets Act 814. Customs 115. Escape 116. Under
Section 326 IPC 217. Under Section 324 IPC 118. Riots 319. Extradition Act 120.
Under Section 354 IPC 1 ----- TOTAL CASES 1930 -----##

2. We have heard learned counsel for the parties. The learned counsel agree that a speedy trial is guaranteed as a Fundamental Right under Article 21 of the Constitution of India. So far as 880 murder cases are concerned, we request the Delhi High Court to nominate/designate ten Additional District Judges to take up exclusively the trial of these cases. The High Court may consider directing the Additional District Judges, as nominated, to dispose of these cases within a period of six months or so.

3. So far as the cases regarding attempt to murder are concerned, we direct that the cases which are pending for more than 2 years, the undertrials shall be released on bail forthwith to the satisfaction of the respective trial courts. Persons facing trial for Kidnapping, Theft, Cheating, Arms Act, Counterfeiting, Customs, under Section 326 IPC, under Section 324 IPC, Riots and under Section 354 IPC who are in jail for a period of more than one year, shall be released on bail forthwith to the satisfaction of the trial courts concerned. There may be cases where the undertrial persons may not be in a position to furnish sureties etc. In those cases, the trial courts may consider - keeping in view the facts of each case especially the period spent in jail - releasing them on bail by furnishing

personal bonds.

4. We make it clear that it shall not be necessary for any of the undertrials to move application for bail. The court shall, suo motu, on the authority of this Court's order, consider the bail cases. This shall be done by all the courts concerned within two weeks of the receipt of this order. We give liberty to all concerned to approach this Court for further directions, if necessary.

5. A copy of this order be sent to the District & Sessions Judge, Delhi by tomorrow. He shall issue the necessary directions in this respect to all the courts functioning under his jurisdiction. A copy of this order be also sent to the Superintendent, Tihar Jail with a direction that he shall bring this order to the notice of all the undertrials concerned.

6. So far as the undertrials accused of the offences under NDPS, Rape, Dacoity and Robbery, TADA, Dowry and under Section 304 IPC, Official Secrets Act, Escape and Extradition Act are concerned, the NCT - Delhi Administration may consider and take appropriate decision in this respect. We are informed by Mr. N. N. Goswami that the matter is already under consideration of the NCT, Delhi Administration.

7. Copy of this order may be sent to the Chief Justice Delhi High Court for his kind consideration.