

\$~5 to 7

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+	BAIL APPLN. 619/2021 & CRL.M.A. 7163/2022 MANISH	 Petitioner
	versus	
	STATE	 Respondent
+	BAIL APPLN. 2612/2021 AZAD BILLU @ BALLU	 Petitioner
	versus	
	STATE NCT OF GOVT. OF DELHI	 Respondent
+	BAIL APPLN. 3171/2021 UMESH	 Petitioner
	versus	
	STATE (NCT OF DELHI)	 Respondent

MEMO OF APPEARANCE:

Ms Aishwarya Rao and Ms Mansi Rao, Advs. for victim/prosecutrix for DHCLSC

Ms Neelam Narang, Addl. P.P/Incharge Rape Crisis Cell, DCW with Ms Yamni Phazang, Legal Supervisor, Rape Crisis Cell, DCW for Delhi Commission for women in BAIL APPLN. 619/2021 and BAIL APPLN. 2612/2021

Ms Prabhsahay Kaur, Ms Rachna Tyagi, Ms Bindita Chaturvedi and Ms Shashi Chaurasia, Advs. for respondents in BAIL APPLN. 619/2021.

Mr Ajay Verma and Mr Gaurav Bhatla Chavya, Advs. for DSLSA in BAIL APPLN. 619/2021

Mr Hirein Sharma, APP for State

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **05.07.2022**

Pursuant to the order dated 31.05.2022, DSLSA has filed a further status report. The status report does not indicate the numbers or the amounts

of disbursements of compensation that has been made till date. Let a further status report be filed indicating the disbursements made till date to the victims.

As per the status report, as on 30.06.2022, 885 applications have been moved out of 5503 pending cases.

Mr Verma, learned counsel appearing for DSLSA states that this was on account of summer vacation and in the next status report, the numbers would be substantially higher.

The chart in para 6 shows that South East DLSA has only moved six applications whereas there are 302 pending cases in South East District. The Secretary, South East DLSA is requested to look into it and file an affidavit indicating the reasons as to why only six applications for compensation have been filed.

It has been brought to my notice that when the applications are moved before the Special Court for interim compensation, it takes two to three hearings before any effective order is passed in the said application. Rule 9 (1) of POCSO read as under:

“The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.”

I may note that a bare perusal of the Rule shows that the Special Court on its own or on an application can pass an order for interim compensation.

According to me, the Special Court need not wait for an application to be filed by a child victim before passing an order for interim compensation and must on its own initiate action for grant of interim compensation at the earliest.

The trigger for grant of interim compensation by the Special Court should be Rule 4 (14) which reads as under:

“4 Procedure regarding care and protection of child.

(14) SJPU or the local police shall also inform the child and child's parents or guardian or other person in whom the child has trust and confidence about their entitlements and services available to them under the Act or any other law for the time being applicable as per Form A. It shall also complete the Preliminary Assessment Report in Form B within 24 hours of the registration of the First Information Report and submit it to the CWC.”

The Special Court must rely on the preliminary assessment report in Form B which is to be filed within 24 hours of the registration of the FIR.

Since there are only 5,503 pending cases, as a corollary, 81,902 must have been disposed of. There is no data with regard to the fact whether any compensation has been paid in those 81,902 cases.

As regards 81,902 cases, Mr Verma has drawn my attention to the SOP which is proposed to be followed in the disposed of cases. However, DSLSA anticipates the problems which are enumerated below:

<u>Anticipated Problems</u>	<u>Directions prayed for</u>
-----------------------------	------------------------------

1 District Courts may insist that all applications for compensation be filed through filing counter and be accompanied with documents such as copy of FIR; MLC; statement of victim under Section 164 Cr.P.C. This may become quite cumbersome and expensive an exercise.	District Courts may kindly be directed to dispense with the filing of said documents at the time of filing an application for compensation under DVCS as these documents would be already available in the respective case files.
2. Courts may not permit inspection of record of disposed off cases by the RCC Advocate/LAC appointed for this purpose since they were not the counsel during the pendency of the trial.	Directions may kindly be given to the District Courts to permit RCC lawyer/ LAC to inspect the record of disposed off cases to see whether an application for compensation is required to be moved (especially in the light of directions passed by this Hon'ble Court in the present matter).

On the two anticipated problems, it would be prudent, if views of Hon'ble District Judges is also solicited so that necessary directions can be passed. Let a copy of Annexure C of the status report be forwarded to the learned District Judges with a request to give their views within a period of two weeks from today.

The respondents shall file a further status report within four weeks from today.

Mr Verma makes a request that Special Courts may be directed to inform the victims about their right to move application under DVCS in the

pending cases. It is directed that the Special Court shall inform the victims about their right to move application under DVCS when the case comes up for hearing before them.

List on 02.09.2022 for further proceedings.

JASMEET SINGH, J

JULY 5, 2022

sr

Click here to check corrigendum, if any