



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1836 OF 2023**

Tribhuvansing Raghunath Yadav] .. Applicant
vs.
State of Maharashtra] .. Respondents

Mr.Vinod Kashid for the Applicant.

Ms.Shivani Kondekar i/b Satyavrat Joshi, Amicus Curie.

Mr.Y.M. Nakhwa, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 10th November, 2023.

P.C.

1] As requested, the Amicus Curie Mr.Satyavrat Joshi, accompanied with the Assistant Public Prosecutor Mr. Y. M. Nakhwa, visited the Arthur Road Jail and Taloja Jail and have tendered a report under their signature.

The Report is taken on record and marked as 'X' for identification.

2] The visit report of Arthur Road Jail, discloses that around

250 prisoners are produced daily, either through Video Conferencing (VC) or physically and there are 16 units of VC facility available in the Jail, of which some are used for connecting the prisoners with their relatives and the remaining are used for Court working.

The report has highlighted that there is a general complaint amongst the inmates that they are neither produced physically nor through VC.

3] As regards Talaja Jail, the report indicates that about 50 to 60 prisoners are produced daily either through VC or physically and similar complaint is made to the team from the inmates that the Courts are not insisting upon production through VC.

It is reported that 19 VC links are available in this jail, but there is requirement of more units and approximate 50 additional VC units are contemplated. The report also informs that an additional building can accommodate these additional units.

The report also refers to consistent complaints about the network connectivity and suggest better internet connection so as to make the VC facility more effective.

4] Mr. Satyavrat Joshi, the Amicus Curie has also pointed out certain flaws in the working of the VC mechanism, on his inspection of the VC facilities in the two major prisons, being non-allocation of separate budget for VC facility as well as its maintenance. He also emphasises on non-availability of technicians to operate the VC units. He would highlight that on interacting with the prisoners, they made a serious grievance about not being produced either through VC facility or in person on several dates and which according to him is a cause for unrest amongst the prisoners.

Mr. Joshi has also submitted detail report upon what steps would ensure effective production of the accused before the Court on various dates and stages and his report under the caption "Production of accused through VC" dated 19.10.2023 is also taken on record and marked as 'X-1' for identification.

5] I would request Mr. Nakhwa, the learned APP to forward report of jail visit as well as the report submitted by the Amicus Curie to the Home Department of the State of Maharashtra, so that necessary steps can be taken for making the facility of VC more effective.

I had deemed it necessary to seek assistance from the Amicus Curie since in Bail Application No.1836/2023, listed before me Mr. Kashid made a grievance that almost on 23 dates the Applicant was not produced either physically or through VC. Taking judicial note of the fact that it is not only in this case, but in several applications, such a grievance is made when the accused are not produced, I had inquired from Mr. Nakhwa about availability of VC facility and a report was placed before me through the learned APP from the Inspector of Prisons and Correctional Services dated 27.09.2023 where it was indicated that 39 prisons in State of Maharashtra, are provided with multiple VC facilities and as far as Mumbai is concerned, approved VC units were informed to be 16 in number, whereas in Talaja Jail 19 units are sanctioned. Highest VC units are available in Thane Central Prison i.e. 21 in number. The report indicate that in all 39 prisons there are 329 sanctioned units out of which 291 are operational/functional.

The communication addressed by the Central Project Co-ordinator, E Courts Project, High Court, Bombay to the Deputy Director General of Police and Inspector of Prisons and Correctional Services also contain the detail information

regarding available and working of VC units at Courts and prisons in the State of Maharashtra.

The aforesaid report gives clarity on the available and working VC units in 379 courts throughout the State of Maharashtra, which indicate that every Court is assigned with at least one VC Unit.

6] Apparently, the VC facilities that are available required expansion as regards the number as well as its actual utilization.

At various stages it may not be necessary to produce the accused, as production of the accused physically in Court is a cumbersome procedure, which consumes time, money and resources. In absence of availability of sufficient number of staff to carry the prisoners to the Court to be represented for various stages, the number necessarily has to be minimised for several reasons like security, non-availability of adequate staff, distance to be covered in traveling as well as adhering to the norms prescribed by the Jail Manual, when the prisoners are to be removed from the Jail for the purposes of production before the Court.

7] Mr. Kashid, the learned counsel for the Applicant as well as the Amicus Curie Mr Satyavrat Joshi are ad idem that barring certain stages like identification of accused before the Court, recording of statement of accused under Section 313 of the Cr.PC., several other stages of the court proceedings can be conducted through VC, which may include framing of charge, extension of judicial custody from time to time. In order to make the VC facility more effective, there would be a need of more screens in each individual Court also. Apart from this if the trial is being conducted through VC and the counsel for the accused need to take certain instructions from the accused, which are confidential in nature, there is a need for a separate kiosk like a telephone booth, where the lawyer of the accused would be in a position to have one to one conversation with his client and it will maintain their privacy as imparting instructions in the open Court room may not be feasible.

It is necessary that every person who is incarcerated and housed in prison as under-trial prisoner, must on the allotted date be produced before the Court either physically or through VC. The respective Court before whom the production is warranted, shall must also ensure that the VC link is made

available to the prison authorities in advance, and for that purpose, a dedicated link, if necessary, shall be created for every Court, so that the Jail Authorities are not made to seek these links at eleventh hour. If a particular designated link is created for a particular Court, in that case, it would streamline the procedure for production of the accused persons through the respective Jail via VC facility.

It is, therefore, necessary that every Court shall have a dedicated link and how it can be technically created, shall be worked out with the Central Processing Complex assistance and the concerned department of the State Government, if at all there are any security concerns. If the dedicated links are allotted to the prison authorities, and time slots are scheduled by the respective Courts, which are also intimated in advance, production of the accused persons can be a simple procedure instead of carrying the prisoners physically to the Court. This would however, necessitate more VC units in the prison as well as more screens in the Court, as every Court would require at least 3 screens for making VC facility more effective and giving it a real/existence shape.

8] Let the learned PP ensure that the State Government make necessary funds available for this purpose and if at all there are any funds which are available, they should be expended before 31.03.2023.

Every Court which is entrusted with a trial and require production of any accused at any stage, it shall ensure that a date is allotted which is intimated to the prison authorities, through the Pairavi Officer/ Police Station In-charge, who acts as a Coordinator between the prison and Court, so that every under-trial prisoner is produced before the court either through VC or through physical mode.

Since Mr. Joshi had assured that during vacation he shall be visiting some more prisons, he shall furnish his fresh reports on the re-opening of the Court, so that further directions can be issued to fructify the production of accused through VC facility.

Liston 04.12.2023.

[BHARATI DANGRE, J]