

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 444 OF 2021

Fr. Stan Swamy ...Appellant

V/s.

State of Maharashtra & Anr. ...Respondent

**NOTE ABOUT THE APPELLANT PRESENT MEDICAL CONDITION  
AND THE INADEQUACY OF THE MEDICAL FACILITY AT TALOJA  
CENTRAL PRISON**

**A. BACKGROUND AND PRESENT SITUATION**

1. The note arises out of communication which Advocates and Father Stan's friend, Father Joseph Xavier had with Father Stan after filing of the Bail Application.
2. On 15.5.2021 when the Advocate Kritika Agarwal had put in an Advocate's call to Father Stan, he could not come on the line due to his ill health and a co-accused who is in touch with Father Stan within the premises mentioned about his deteriorating health.
3. An Affidavit is not possible to be filed due to the lock down and Father Stan's health condition and thus this note is filed.
4. Father Joseph Xavier has stated that in the last conversation that he had with the Appellant, the Appellant said that he was unwell with a cough, fever, an upset stomach and a feeling of weakness / fragility. Father Joseph, who knows him from decades has informed that Father Stan hardly ever complains even if he is undergoing acute pain and the fact that he spoke about his illness is itself an indication that Father Stan's health is very bad and deteriorating.

5. By an order dated 04<sup>th</sup> May 2021 this Hon'ble Court had directed the authorities to provide a medical update report of Stan Swamy by 15<sup>th</sup> May, 2021 with an advance copy to the Advocate for the Petitioner. However, till date the same has not been supplied. In any event, the prison facilities has no facilities whatsoever and is manned by three ayurvedic doctors and thus unless he is taken to a multispecialty hospital a proper diagnosis cannot be done.

**B. MEDICAL CONDITION OF THE APPELLANT**

6. It is stated that the Appellant is 84-years old and has been diagnosed with Parkinson's disease. Parkinson's disease is a neurodegenerative condition caused by the loss of dopamine-producing neurons in the brain, which leads to various neurological and mobility-related symptoms. The Appellant has been showcasing symptoms of advanced stages of Parkinson's disease and has debilitating tremors in both arms which almost impairs him from accomplishing basic and essential daily tasks such as eating food, drink water and putting on clothes and taking bath, without the assistance of fellow inmates. The advanced stages of Parkinson's disease have also affected the Appellant's ability to walk, the Appellant tends to wobble while walking and has suffered a fall while using the bathroom. Thus, the Appellant requires constant help of his fellow inmates to accomplish day-to-day tasks. The mobility related symptoms are so pronounced that the Appellant is unable to write and cannot even sign. Hence the Appeal preferred by the Appellant had to filed using the Appellant's thumb impression. Further, apart from mobility related symptoms mentioned herein the Appellant has also suffered episodes of memory loss. The Appellant has difficulty remembering names and faces

and is more often than not unable to recognize someone who he has met in the past and needs to be reminded of his earlier encounters with the said person.

7. Apart from the aforesaid symptoms of advanced Parkinson's disease the Appellant also suffers from the various other ailments more closely associated with the Appellant's advanced age. The Appellant is unable to hear without the help of a hearing aid and despite the use of the said hearing aid the Appellant is unable to follow conversations with multiple people as the Appellant can only comprehend conversations wherein the speaker talks slowly, distinctly and loudly and by recognizing lip movements. Appellant also has debilitating arthritis, which makes it difficult for him to get up from the floor or sit cross legged. Though, the cot and the western toilet provided by the jail staff has helped the Appellant still requires constant massages of his knee joints to ensure that the pain emanating from the said joints does not increase.

### **C. SITUATION AT TALOJA PRISON**

8. It is submitted that the aforesaid medical state of the Appellant should be seen in context of the abysmal conditions of the medical facilities and lack of adequate medical practitioners at Taloja Central Prison, an 'A' type central prison especially in light of the Appellant's advanced age and the COVID-19 pandemic.
9. According to the data maintained by the Maharashtra Prison Department, Taloja Prison can officially house only 2124 inmates. In an affidavit filed by the ADG of Prison before the Hon'ble High Court in *PUCL versus State of Maharashtra*, PIL-CJ-VC-LD-VC-2 of 2020, it was submitted that in order to comply with social distancing norms, they should essentially

house only 2/3<sup>rd</sup> of the official prison capacity which would be equivalent to 1416 inmates. However, according to Maharashtra State Prison website on 23<sup>rd</sup> April, 2021, Taloja Prison housed 3251 inmates.

10. Under the Maharashtra Prisons (Prison Hospital) Amendment Rules 2015, issued by the State of Maharashtra under the provisions of the Prison Act, 1894 the following infrastructure is required at an A type central prison-

S. No.	Persons	'A' Type for Central Prisons (50+beds)	'B' Type for District Prisons Class I and Class II (under 50 beds)
1	Chief Medical Officer (in the rank of Civil Surgeon with Post Graduate Qualification)	1	1
2	Medical Officers (in the rank of Assistant Civil Surgeons)	5	1
3	Staff Nurses (Male or Female)	3	1
4	Pharmacists (Compounders)	2	1
5	Male or female Nursing Assistants	3	1
6	Laboratory Technicians (to be trained in handling all equipment including ECG and X-ray machine)	2	1
7	Psychiatric Counselors (Psychologist)	2	3

All the Medical officers in the rank of Assistant Civil Surgeons shall be from the different medical specialties as under-

S. No.	Medical Specialty	'A' Type for Central Prisons (50+beds)	'B' Type for District Prisons Class I and Class II (under 50 beds)
1	MD General Medicine	1	1
2	MD Dermatology	1	--
3	MD Psychiatry (mental and de-addiction cases)	1	1
4	MDS Dentistry	1	--
5	MD Gynecology	1	1

Taloja Central Prison Hospital has a total of only 3 persons, all of whom

are practitioners in Ayurveda. There are no medical officers of the required qualification. There are no staff nurses, no pharmacists/compounder, no nursing assistants, no laboratory technicians and no medical specialist (general medicine, dentistry or gynaecologist. There are no psychiatrist counsellors employed. Thus, practically none of the requirements for the hospital staff in jail as stipulated in the Maharashtra Prison Manual are complied with. Apart from this, there is no infrastructure to carry out even basic diagnostics. A copy of the Maharashtra Prisons (Prison Hospital) Amendment Rules, 2015 are annexed hereto and marked as **Exhibit A**.

11. The Appellant states and submits that these inadequacies were considered by this Hon'ble Court in its judgment in Criminal Appeal No. 52 of 2021 (Dr. P.V. Varavara Rao v. NIA & Another) along with Criminal Writ Petition No. 63 of 2021 (Pendyala Hemalatha v. State of Maharashtra & Others) and Criminal Writ Petition No. 64 of 2021 (Dr. P.V. Varavara Rao v. NIA & Others), dated 22.2.2021 while granting medical bail to a co-accused (who was also at Taloja) the relevant extract of the said judgment are reproduced hereinunder:

*“63. The undertrial was brought to the Taloja Central Prison and he was admitted to the prison hospital. Although it is claimed by the respondents that the health of the undertrial was being monitored as per the instructions given by the Nanavati Hospital, it has been specifically stated on behalf of the undertrial that there was no nursing staff to look after him and that only a co-accused person was provided as an attendant. It has been specifically asserted in an affidavit filed by the wife of the undertrial in Criminal Writ Petition No. 63 of 2021, that there was no facility in the Taloja Central Prison Hospital as there was no doctor available and that there were only three Ayurvedic practitioners to look after the ill and infirm inmates. It was further stated that there was no nursing staff and tasks of nursing were being performed by untrained undertrial prisoners. There was nothing placed on record on behalf of the respondents to deny such specific allegations.*

*64. Therefore, it becomes clear that when the undertrial was brought from the Nanavati Hospital to Taloja Central Prison and lodged in the hospital*

*attached to it, despite the requirement of constant monitoring, no such facility was made available and there was absence of trained medical staff to look after the inmates like the undertrial suffering from various health conditions at an advanced age.*

.....

*75. In view of the aforesaid material and sequence of events, we have come to the conclusion that sending the undertrial back to Talaja Central Prison would certainly endanger his life. In fact, continued custody of the undertrial at the Talaja Central Prison is wholly incompatible with his health condition, because the hospital at the Talaja Central Prison is not adequately equipped to take care of the undertrial, given his advanced age and various health conditions.”*

The situation of the Talaja prison has if at all worsened since this order.

#### **D. PRESENT MEDICAL TREATMENT OF THE APPELLANT**

12. The Appellant has presently been prescribed Plempt-2/Pacitane, Ciplar-40, Mysoline 250 (which has been replaced by Gardenal 60). These medicines were prescribed by the Appellant’s neurologist in Ranchi. While it appears that the medical staff at the prison have prescribed the Appellant Ole-5 and Es-Trim-10. It is pertinent to note that while Ole-5 is an antipsychotic drug used in the treatment of schizophrenia, bipolar disorder and mania, the Appellant has not been diagnosed with any of the said disorders. Furthermore, muscle stiffness, tremors and uncontrolled muscle movements are common side effects of Ole-5. Thus, it is possible that the medication being administered to the Appellant may exasperate the Appellant’s mobility-related symptoms arising out of the severe Parkinson’s as aforementioned.
13. It should further be noted that since the Appellant’s arrest, the Appellant has been kept in the Hospital Ward of Talaja Central Prison owing to his advanced age and medical history. It is pertinent to note that another accused i.e. Mr. Hany Babu was also being treated in the same Hospital

ward as the Appellant and Mr. Hany Babu has tested positive for COVID-19 on 13<sup>th</sup> May 2021. Moreover, the Appellant has informed his colleagues during a family telephonic *mulakaat* that he has developed a fever, severe headaches, cough and diarrhea which is presently being treated by one of the Ayurveda practitioners at Taloja Central Prison. The Appellant has been prescribed anti-biotics by the said doctor, who it is pertinent to note is not a practitioner of allopathic medicine. On 14 May 2021, the Appellant has communicated to Father Joseph Xavier, responsible person for the Appellant, that his health is deteriorating and he feels weak and fragile.

**E. NECESSITY TO RELEASE THE APPELLANT ON MEDICAL BAIL**

14. Thus, in light of the aforesaid it abundantly clear that the Appellant life is under imminent threat due to his pre-existing medical condition, advanced ages, lack of medical facilities at Taloja Central Prison and a COVID-19 pandemic that has breached the prison walls and has already infected a fellow inmate who was sharing the same hospital ward where the Appellant was also being treated. Thus, the Appellant is entitled to be released on temporary medical bail.
15. That no prejudice will be caused to the NIA by the release of the Appellant as the NIA did not seek even a single day of police custody of the Appellant. In fact, charge sheet was filed on the very day Appellant was produced before the Learned Special Court in Mumbai. Further, it is amply clear that the trial in the present case is going to take a long time, and the same has been acknowledged by this Hon'ble Court in its judgment in Criminal Appeal No. 52 of 2021 (Dr. P.V. Varavara Rao v. NIA & Another) along with Criminal Writ Petition No. 63 of 2021 (Pendyala Hemalatha v. State of Maharashtra & Others) and Criminal Writ Petition No. 64 of 2021 (Dr. P.V.

Varavara Rao v. NIA & Others), while granting bail to an 82-year old co-accused this Hon'ble Court considered the age of the Appellant therein, and the fact that the trial in the present case hasn't even started yet and the same would take a long time:

*50. .... Another significant aspect of the right pertains to the manner in which prisoners of advanced age, suffering from various health ailments, are to be treated. The prisoners of advanced age like the undertrial, who is about 82 years old, and such other prisoners suffering from various health ailments induced by old age when put beyond bars, certainly face the danger of their health conditions worsening and accelerating their journey towards the end of their life. This is an aspect, which cannot be ignored while considering the prayer for grant of an order of release from custody, despite rejection of bail application on merits. The onset of old age and concomitant debilitating effect on the mental and physical conditions is an aspect which assumes great significance in the context of keeping such old aged persons behind bars. Even if such old aged prisoners with various health conditions are accused of serious offences, the question is as to whether they can be forced to live a subhuman existence behind bars, only because they stand accused of serious offences? In the facts of the present case, the charges are not yet framed by the NIA Court and the prosecution wishes to examine around 200 witnesses. Hence, today, nobody is in a position to tell us within how much time, the trial would be completed. When such situations are brought before the Constitutional Courts and the fundamental rights guaranteed under Article 21 of the Constitution of India are asserted, the answer to the said question has to be in the negative.*

.....

83. As we have noted above, in a given case, the fundamental rights guaranteed in Part III of the Constitution of India to prisoners languishing in four walls of prisons could be asserted on the basis of appropriate material to show that to recognize such rights, particularly the right guaranteed under Article 21 of the Constitution of India, the walls of the prison would have to be breached, subject of course, to imposition of appropriate conditions. Imposition of conditions would be in the nature of a safety net to ensure that the undertrial/accused is made to face proceedings before the trial court. The Hon'ble Supreme Court in the case of *K.A. Najeeb (supra)*, has categorically held in the context of sufferings of undertrials where the proceedings before the trial court take years to be completed, that the rigours of provisions pertaining to grant of bail found in special statutes like the UAPA will melt down where there is no likelihood of the trial being completed within a reasonable time. Therefore, such a position of law is now well recognized and it can be relied upon where on facts, the court comes to a conclusion that continued incarceration of an accused like the undertrial in the present case, would violate his right under Article 21 of the Constitution, considering the precarious health condition of such an accused. Even otherwise, in the present case also, the respondents have conceded that at least 200 witnesses will be examined by the prosecution. The chargesheet itself runs into thousands of pages. The charge is not framed yet, and consequently, the trial is yet to commence and, even after commencement of trial, it may take a long time to complete since the prosecution intends to examine at least 200 witnesses.”

**F. ALTERNATIVE HOUSE ARREST**

16. In the alternative, and without prejudice to the above, in light of the Judgment of the Hon'ble Supreme Court dated 12.05.2021 in Criminal Appeal No.521 of 2021, this Hon'ble Court could order house arrest of the Appellant under section 167 of the Criminal Procedure Code. The Supreme Court in paragraph no. 139 of the said Judgment lays down a broad guideline for use of the said power.

*“139. We observe that under Section 167 in appropriate cases it will be open to courts to order house arrest. As to its employment, without being exhaustive, we may indicate criteria like age, health condition and the antecedents of the accused, the nature of the crime, the need for other forms of custody and the ability to enforce the terms of the house arrest. We would also indicate under Section 309 also that judicial custody being custody ordered, subject to following the criteria, the courts will be free to employ it in deserving and suitable cases.”*

Thus, it is submitted that the Appellant's medical history, age and the fact that the investigating agency has never sought custody of the Appellant makes the Appellant uniquely positioned for this Hon'ble Court to exercise its powers under section 167 of the Criminal Procedure Code.

Date: 17.05.2021



Advocate for the Appellant



## NOTIFICATION

Home Department, Mantralaya  
Madam Cama Marg,  
Hutatma Rajguru Chowk,  
Second Floor, Main Build  
Mumbai- 400 032  
Dated -1<sup>st</sup> December, 2015

Prisons Act, 1894.

No. JLM-1013 C.R. 115 13/PRS-2- In exercise of the powers conferred by clauses (10), (27) and (28) of section 59 of the Prisons Act, 1894 (IX of 1894), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following rules further to amend the Maharashtra Prisons (Prison Hospital) Rules, 1970 as follows, namely:-

1. These rules may be called the Maharashtra Prisons (Prison Hospital) (Amendment) Rules, 2015.
2. In the Maharashtra Prison (Prison Hospital) Rules, 1970 (hereinafter referred to as "the Principals Rules"), for the word 'Prison' or 'Jail' wherever it occur, the word 'Prison and Correctional Centre' shall be substituted.
3. In rule 2 of the Maharashtra Prisons (Prison Hospital) Rules, 1970 (hereinafter referred to as "the principal Rules"), in sub-rule (i).-
  - (a) for clause (1), the following clause shall be substituted, namely:-  
“(1) The Medical Officer on deputation to a Prison from the Maharashtra Medical Services, Group B, where such posts are sanctioned by the Government who shall be the Chief Medical Officer (CMO) of the Prison, or”;
  - (b) in sub-rule (ii), for the word “regularly”, the word “daily” shall be substituted;
  - (c) after sub-rule (ii), the following sub-rule shall be added, namely:-  
“(iii) The staff of prison hospitals shall consist of the following personnel:-

Sr.	Persons	'A' Type for Central Prisons (50 + beds)	'B' Type for District Prisons Class I and Class II (under 50 beds)
1	Chief Medical Officer (in the rank of Civil Surgeon with Post Graduate Qualification)	1	1
2	Medical Officers (in the rank of Assistant Civil Surgeons)	5	1
3	Staff Nurses (Male or Female)	3	1
4	Pharmacists (Compounders)	2	1
5	Male or Female Nursing Assistants	3	1

6	Laboratory Technicians (to be trained in handling all equipment including ECG, and X-ray machine.	2	1
7	Psychiatric Counsellors (Psychologists)	2	1

(iv) All the Medical Officers in the rank of Assistant Civil Surgeons shall be from the different medical specialties as under:-

Sr.	Medical Speciality	'A' Type for Central Prisons (50 + beds)	'B' Type for District Prisons Class I and Class II (under 50 beds)
1	M.D. General Medicine	1	1
2	M.D. Dermatology	1	--
3	M.D. Psychiatry (mental and de-addiction cases)	1	1
4	M.D.S. Dentistry	1	--
5	M.D. Gynaecology	1	1

(v) The Medical Personnel shall be directly responsible for the medical care and health of prisoners. They shall also ensure the maintenance of minimum standards of hygienic conditions in the prison premises. The specific duties of each of the medical personnel shall be assigned by the prison authorities. The duties are divided into the following categories:

(A) Preventive Service: (a) Examination of prisoners on admission and their periodic re-examination and to provide immediate treatment wherever needed.

(b) Immunisation of inmates and to segregate and treat those having contagious or infectious diseases.

(c) To give advice regarding diet, clothing, equipment, health and safety, and institutional sanitation.

(d) To provide personal hygiene, and health education for inmates and prison personnel.

(B) Curative Services: (a) To provide or arrange for the treatment of diseases, dental care, skin ailments, correction of sight defects, hearing problems, speech impediments and posture problems.

(b) To arrange for artificial limbs, glass eyes, trusses and other prosthetic devices as prescribed by specialist medical personnel.

(c) To prescribe special diets where medically necessary.

(d) to advise on exercise and to arrange for physiotherapy where needed.

(C) General: (a) The Chief Medical Officer shall be responsible for the prison hospital administration, hospital discipline, classification of prisoners, with regard to their fitness for work, and suggesting special precautionary measures where necessary for certain types of offenders.

(b) Medical personnel shall visit daily, the prisoners who are under

cellular punishment and prisoners who are under sentence of death.

(c) The Chief Medical Officer shall on a regular basis inspect the kitchen, cooked food, canteen, raw provisions and supplies, and he is to assist the Superintendent in matters pertaining to institutional management.

(d) The Chief Medical Officer shall ensure a good working relationship with local officers of medical and health Departments and medical staff in local hospitals.

(vi) Where possible one ambulance shall be provided for each Prison Hospital attached to a Prison.”

4. For rule 3 of the principal Rules, the following rule shall be substituted, namely:-

“3. (1) The Chief Medical Officer shall be the Technical Head of all the medical officers and shall be in charge of the entire medical administration. He along with his subordinates shall be jointly responsible for the health care of the prisoners.

(2) The Chief Medical Officer shall,—

(1) see that proper expenditure is incurred on medicines and other medical stores.

(2) from time to time, examine all the medicines kept in the store in order to assure himself of their purity.

(3) regularly check the accounts of medicines purchased from the market.

(4) himself check the stock of drugs and instruments every six months and submit a certificate to that effect alongwith the certificate of the Superintendent to the Additional Director General of Police (Prisons) or Inspector General of Prisons in respect of central prisons and to the Regional Deputy Inspector General in respect of other prisons.

(5) pay special attention to the quality and quantity of the water supply to the prison. If contamination is suspected, he shall send water samples to the local testing laboratory and take corrective measures where needed.

(6) inspect at least once a month the sources, surroundings and distribution of water supply. When there is a reason to suspect that pollution or contamination is likely to occur, he shall take suitable steps to ensure the purity of water by chlorination or otherwise.

(7) ensure in prisons where there are more than one Medical Officer or Assistant Civil Surgeons that:-

(a) the hours of duty during the day shall be equally distributed between them, ensuring that one of them is always present in the prison.

(b) the arranges for the proper distribution of work amongst all the staff working in his department has been made

(c) one of the Medical Officer or Assistant Civil Surgeons shall be on night duty on a rotation basis to attend the prisoners in the event of an emergency:

Provided that, in prisons where there is only one Medical Officer or

Assistant Civil Surgeon he shall remain in the prison during the day, except when permitted to absent himself for meals or other valid reasons and shall visit the prison hospital occasionally at night and may under the orders of the Chief Medical Officer, be required to remain on duty if there are any cases under treatment which are likely to render his presence necessary.

(8) keep in view sites for segregation of prisoners which may be suitably utilised in case of any epidemic disease,

(9) inspect all new barracks, wards and other places of detention and shall certify whether they are, in all respects fit for occupation by prisoners.

(10) if he is the Resident Medical Officer, visit the hospital daily before 10 a. m. and shall take round of the wards and see all admitted and detained prisoners.

(11) personally examine and pass orders regarding the treatment of all prisoners who have come or been sent to hospital since the previous morning,

(12) examine all prisoners for diseases and sexually transmitted disease, provided that, female prisoners shall be examined by lady doctors only.

(13) as far as may be practicable, personally treat the sick prisoners instead of delegating this duty to a Junior Medical Officer and there should be provision for Tele-medicine facility in every jail.

(14) The medical officer may treat the sick prisoner with the help of tele-medicines and send the sick prisoner to the Government hospital only if tele-medicine and treatment within the prison hospital are inadequate to treat the inmate.

(15) visit the prison as many times daily as may be necessary for the efficient discharge of his duties or, if he is unable to do so on any day, he shall issue suitable instructions to his Junior Medical Officers in respect of cases requiring attention.

(16) acquaint the Superintendent of his absence and the arrangements made by him for his duties and shall on his rejoining, record the cause and duration of his absence in Form I.

(17) inspect every part of the prison regularly and frequently for the purpose of ascertaining that nothing likely to be injurious to the health of the prisoners present therein and ascertain that ventilation and cleanliness of the barracks, yards, latrines, and other parts of the prison are properly attended according to the rules laid down for conservancy and cleanliness of the persons and clothing of prisoners is observed.

(18) be present at the time of inspection rounds of the prison by the Superintendent, attend to the medical requirements of prisoners and shall record his observations in Form I with instructions, if any.

(19) occasionally visit the sleeping wards some hours after the inmates have been locked up in order to inspect the ventilation arrangements and particularly to see whether the air inside is foul and temperature unduly or low.

(20) visit once in a day, and often if necessary, all prisoners in cells and shall report at once in writing to the Superintendent the necessity for the removal of any prisoner therefrom on account of bodily or mental infirmity.

(21) see that the hospital books, registers and returns are properly maintained and are initialed daily where necessary.

(22) pay special attention to the following registers and forms, namely:—

- (a) Medical Officers' Journal, in Form I (Register 32).
- (b) Health screening of a prisoner on admission to prison in Form II.
- (c) Register of Sick Prisoners, in Form III.
- (d) Register of Convalescent Prisoners (with index), in Form IV.
- (e) Register of extra diet given to prisoners, in Form V.
- (f) Requisition Book, in Form VI.
- (g) Register of Surgical Instruments and Medical Books, in Form VII.
- (h) Register of Hospital Clothing, in Form VIII, and
- (i) Expense book of drugs, in Form IX,

(23) keep a record in Form X (Form C. M. 3) of all cases admitted to hospital, of the number of prisoners treated as outpatients for minor ailments and of the members of the staff and their families in the Form prescribed by the Additional Director General of Police (Prisons) or Inspector General of Prison.

(24) scrutinise the entries made by the Medical Officers in Form II about the state of health of a prisoner on his admission to the prison. Where a prisoner appears sick, he shall direct his removal to the prison hospital or into quarantine and shall make an entry in the remarks column of form II. It is important that this Form is scrupulously completed as it is a Human Rights Commission directive.

(25) sign orders for extra diet and other articles required for sick prisoners whether in or out of the hospital and shall make a report thereof every month to the Additional Director General of Police (Prisons) or Inspector General of Prison, in respect of central prisons and to the Regional Deputy Inspector General in respect of other prisons through the Superintendent including variations made in the ordinary diet of prisoners on medical grounds, and also during any epidemic or other emergency.

(26) recommend to the Superintendent for change of diet of entire prison during the prevalence of epidemic disease or in case of emergency.

(27) while forming an opinion about the physical fitness for labour of a convicted criminal prisoner taking into account the prisoner's occupation, his mode of life, health, locality in which he has resided, abundance or scarcity of food in the district to which the prisoner belongs, the state of his muscles and limbs and signs, if any, of constitutional or mental weakness.

(28) cause to be prepared and brought to the notice of the Superintendent, an abstract of statement showing the total number of prisoners employed on labour who have gained weight, the number of kilograms gained, the total

number of prisoners who have lost weight. the number of kilograms lost and the number of prisoners whose weight has remained the same,

(29) prepare nominal rolls (in Form Prison and Correctional Centre 36-A) each month and attach to the detailed contingent bill. Such rolls shall show (a) the total number of prisoners to whom a particular extra diet is given, (b) the medical grounds on which extra diet is given, (c) the total number of prisoners in or out of the hospital to whom extra diet other than that supplied to ordinary prisoners was issued during the month, and (d) the reasons for giving such extra or special diet in each case,

(30) report in Form I about the health of a prisoner or the prisoners generally, the result of his weekly and other inspections and any practice, acts or omissions which he may consider to be objectionable on sanitary grounds,

(31) report to the Superintendent for communication to the Additional Director General of Police (Prisons) or Inspector General of Prison, matters connected with the sanitary conditions of the prison or the treatment of the prisoners which shall at any time appear to him to require his consideration and shall also make a special report through the Superintendent to the Additional Director General of Police (Prisons) or Inspector General of Prison, of any unusual or excessive sickness or mortality in the prison,

(32) report to the Superintendent in writing the appearance of any epidemic or contagious disease likely to assume an epidemic form, and any irregularities in the hospital or any other part of the prison which may come to his knowledge in connection with his medical duties or the sanitary arrangements in force, making at the same time necessary suggestions he shall also report to the Surgeon General, the Director of Public Health and the Director, Mumbai Bacteriological Laboratory, Parel, the appearance of epidemic disease of a contagious nature,

(33) give directions in writing for immediately separating from the other prisoners any prisoner having, or suspected of having, infectious, contagious, or mental disease, and for cleansing, disinfecting, or destroying any infected places, bedding or clothing,

(34) arrange for a post-mortem examination by the Medical Officer of the Medical College attached to a Government Hospital for all cases regarding the death of prisoners or their children who reside with them, occurring inside the prison premises, in prison hospitals, in transit from one prison to another or from the prison to an outside hospital or in an outside hospital. A full report on the circumstances of the death shall be sent by the Superintendent without any delay to the Additional Director General of Police (Prisons) or Inspector General of Prison, (copy to the Regional Deputy Inspector General of Prison) for submission to the State Government and the reports made by the police and magistrate, the nominal roll, copies of judgments, the reports required by section 15 of the Prisons Act, 1894 (Central Act IX of 1894) and the deposition of any witnesses with this report, shall be submitted,

(35) examine judiciously all cases which are recommended for release on medical grounds by the Medical Officer Group B, satisfy himself that the prisoner is really in such a state as to justify his immediate release from jail on medical grounds, and issue the certificate over his signature for being sent to Government with the report.

(36) also examine all prisoners awarded corporal punishment before it is executed and also attend all executions of prisoners.

(37) attend as required, to the medical needs of prison staff and their families, who reside on the prison campus. Medicines required for their treatment shall be provided from the prison store and shall bring to the notice of the Superintendent any facts regarding the cases of illness that may be of importance in enabling him to determine as to the fitness or otherwise of Prison Staff for continued employment in the Prison Service.

(38) report to the Additional Director General of Police (Prisons) or Inspector General of Prison, through the Superintendent of the prison if he notices injuries on any prisoner which are alleged to have been caused by prison officials,

(39) accompany the regional Deputy Inspector General of Police or the the Additional Director General of Police (Prisons) or Inspector General of Prison, on their inspection of the prison.

(40) in consultation with the Prison Psychiatrist and Psychologists (where they are appointed) shall organise de-addiction programs for such prisoners who are known to be drug addicts or alcoholics and shall also organise training in Transcendental Meditation and Yoga for them.”.

5. In rule 5 of the principal Rules, for the word “locality” the word “localities” shall be substituted.
6. In rule 8 of the principal Rules.-
  - (a) for the portion “1 Form II” the portion “III” shall be substituted;
  - (b) after the words “necessary action” the words “in Form I. No treatment shall be given to prisoners feigning illness.” shall be added.
7. In rule 9 of the principal Rules, in sub-rule (2), for the words “Medical Officer” the word “Chief Medical Officer” shall be substituted.
8. In rule 12 of the principal Rules, for the word “prisoner” the word “prisoners”, and for the words “shed” the word “housing unit” shall be substituted.
9. After rule 12 of the principal Rules, following new rule shall be added, namely:-
 

“13. Visit of Civil Surgeon or Medical Superintendent:- Civil Surgeon or Medical Superintendent shall visit the prisons and correctional centres in his jurisdiction and make sure that proper medical facilities are made

available to the prisoners. On request of the prison administration he shall arrange for specialists under his jurisdiction for appropriate treatment of the prisoners.

By order and in the name of the Governor of Maharashtra,



(J. L. Pawara)

Deputy Secretary to Government.