

ITEM NO.2

COURT NO.6

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s). 326/2018

KARTIK SUBRAMANIAM

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(FOR ADMISSION and IA No.174120/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES  
IA No. 179731/2018-GRANT OF INTERIM RELIEF  
IA NO. 180848/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 23-01-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Ms. Warisha Farasat, Adv.  
Ms. Rudrakshi Deo, Adv.  
Ms. Shruti Narayan, Adv.  
Mr. Shadan Farasat, AOR

For Respondent(s) Ms. Sunita Rani Singh, Adv.  
Mr. B.V. Nbalram Das, AOR

Mr. Atul Kumar, AOR  
Ms. Archana Kumari, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

1) The present writ petition concerns a person, who has been in Tihar Jail, Delhi, for the last 24 years with remissions. The Standing Order No. 61 governing the functioning of Semi-Open Jail dated 27.01.2012, as amended, is reproduced below:-

"2. Selection Committee

(i) For the purpose of selecting prisoners for confinement in any semi-open prison, there shall be a Selection Committee consisting of:-

(a) The Dy. Inspector General (Prisons), Chairman

(b) The superintendent of the concerned jail,  
Member

(c) The Welfare Officer of the concerned jail,  
Member

(d) The Law Officer, Member Secretary

(ii) The Selection Committee shall, subject to the provisions of these guidelines, prepare a list of selected prisoners and shall submit the same to the Director General of Prisons for his approval.

### 3. Criteria for selection

(i) x x x

(ii) The following prisoners shall not normally be sent for confinement in a semi-open prison who:-

(a) x x x

(b) have convicted for offences such as dacoity, terrorist crimes, kidnapping, smuggling, under NDPS Act, foreigners or members of organized criminal gangs;

(iii) Notwithstanding anything contained in clause (ii) above, the Director General of Prisons, may on the recommendation of the Selection Committee, consider the cases of prisoners falling under clause (ii) for the purpose of confinement in semi-open prison."

2) The writ petition filed before this Court states that the Selection Committee has rejected the petitioner for grant of semi-open jail without exercising its discretion under Clause 3(iii) of the aforesaid Standing Order merely on the ground that, as the petitioner was convicted of the heinous offence of kidnapping for ransom, the Committee is of the view that for that reason alone, he will not be entitled to be considered for a semi-open prison.

3) We direct the Selection Committee to consider the facts of the petitioner's case and to exercise its discretion under Clause 3(iii) and dispose of the case with a reasoned order as to whether or not the petitioner would be entitled to be moved to a semi-open

jail.

4) However, during the course of arguments, learned counsel for the petitioner submitted the details of petitioner's father's health, as a part of the prayer for grant of interim relief, seeking remission from the Court.

5) Issue Notice on the said interim prayer, returnable within 10 days.

(MANAV SHARMA)  
COURT MASTER (SH)

(KAILASH CHANDER)  
ASSISTANT REGISTRAR