

OFFICE OF UTTARAKHAND STATE LEGAL SERVICES AUTHORITY,
HIGH COURT CAMPUS, NAINITAL

No. Memo/SLSA/2020,

Date: 26.03.2020

ORDER


In compliance of the order dated 23.03.2020 passed by the Hon'ble Supreme Court in **Suo Moto Writ Petition (C) No. 1/2020, In Re: Contagion of COVID-19 Virus in Prisons**, Hon'ble the Chief Justice, High Court of Uttarakhand/Patron-in-Chief, Uttarakhand State Legal Services Authority has been pleased to constitute a High Powered Committee comprising of the following, namely-

- (i) Hon'ble Executive Chairman of State Legal Services Authority as Chairman;
- (ii) The Principal Secretary (Home/Prison) as Member; and
- (iii) Director General of Prison as Member

The Hon'ble High Powered Committee has been constituted to determine which class of prisoners can be released on parole or on interim bail for such period as may be thought appropriate.

As per the direction of the Hon'ble Apex Court vide order dated 23.03.2020 passed in **Suo Moto Writ Petition (C) No. 1/2020** and guidelines laid down by the Hon'ble Apex Court, vide judgment dated 02.07.2014, in Criminal Appeal No. 1277 of 2014 (**Arnesh Kumar vs. State of Bihar**), the Committee has been pleased to determine that the parameters be adopted, that except in the following matters, in all other offences relating to convicts/under-trials, the benefit of the above judgment may be given; namely-

- i. The cases relating to Protection of Children from Sexual Offences Act;
- ii. The crimes relating to sexual offences committed against the women;
- iii. The offences relating to rioting and waiging war against the State;
- iv. The crimes relating to counterfeit currency;
- v. Crimes against children relating to kidnapping;
- vi. Crimes relating to anti corruption matters;
- vii. The Crimes relating to commercial and economic offences;


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viii. The crimes relating to Gangsters Act; and

ix. The crimes under NDPS Act relating to the recovery of commercial quantity and less than commercial quantity but more than small quantity.

Taking into consideration the parameters mentioned above, it may be appropriate that such prisoners may be released on parole or interim bail who have been convicted or are undertrials for the offences for which the prescribed punishment is upto seven years or less, with or without fine, and the prisoner has been convicted with less than seven years, even the maximum prescribed punishment is more than seven years. Further, the prisoners may be released on parole or interim bail for a period of six months.

In compliance of the directions issued by the Hon'ble Apex Court, the information regarding number of undertrials and convicts has been sought from all the District Legal Services Authorities. The lists of undertrials and convicts have been provided by District Legal Services Authorities to the State Authority. The State Authority has prepared a proposed list of beneficiaries (Convicted- 264; Under-trial- 627; Total-891) keeping in mind the abovementioned parameters (**Annexure-A**).

The information regarding the health conditions of undertrials/convicts, as mentioned in Annexure-A, was also sought from jail authorities through District Legal Services Authorities on the following points:

- A) Health condition of the convicts/undertrials mentioned in the list;
- B) If any convict/undertrial is suffering with fever, cold or coughing;
- C) If any person from the family or relative of convicts/undertrials came to jail to meet them; and
- D) List of persons who came to meet convicts/undertrials during the last 14 days.


As per the information provided by the jail authorities regarding the health conditions of the prisoners, as mentioned in Annexure-A, total 36 prisoners are found suffering from cold, cough, fever, HIV etc. The list of such ill prisoners is **Annexure-B**. It may be appropriate that presently the proposal for release of such ill conditioned prisoners be not considered. However, they may be considered for the benefit of the directions laid down in the order of Hon'ble Apex

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Court in future on the basis of their health conditions. The Under-trial Review Committees are requested to consider such prisoners in their forthcoming meetings.

The Hon'ble High Powered Committee has been pleased to issue the following recommendations/directions :

- A)** The convicted and undertrial prisoners, as mentioned in Annexure-A (except the prisoners mentioned in Annexure-B) shall be released on parole or interim bail, as the case may be, for a period of six months.
- B)** The issue of release on interim bail/parole of the prisoners mentioned in Annexure-B, shall be considered in future on the basis of their health conditions. The Under Trial Review Committees are requested to consider such prisoners in their forthcoming meetings. In this regard, the jail authorities are requested to provide the proper treatment for such prisoners and make arrangement to keep them in isolation as per guidelines of Health Department.
- C)** The Under Trial Review Committees are also requested to take up the similar matters, as mentioned in Annexure-A, in their forthcoming meetings and shall send the proposal regarding suitable matters for release the prisoner(s) to the High Powered Committee for approval or further directions. For this purpose the Under Trial Review Committees shall take into consideration the above mentioned parameters as determined by the High Powered Committee .
- D)** The Parole and interim bail applications, as the case may be, be moved through jail authorities with the help of District Legal Services Authorities to the Government of Uttarakhand or Courts concerned. The applications be filed online to prevent the gathering in masses in Courts or Government offices and to comply with the social distancing policy of the Central government.
- E)** The District Judges are requested to make necessary arrangements for online hearing of the bail applications filed by the beneficiary prisoners.
- F)** The concerned Courts are requested to release such undertrial prisoners on personal bond, without sureties, in order to implement the social distancing policy of the Government.


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- G)** The Secretary, Home, Government of Uttarakhand is requested to issue online directions to the concerned authorities for release the convicts on parole for six months. All the applications received by the Secretary, Home or by designated officer by the Secretary, Home shall be online decided and order shall be conveyed to the jail authorities. The Secretary, Home has informed that the State Government has delegated the power to Director General of Prison to do the work and process regarding parole. The Director General of Prison is requested to do the needful in this regard.
- H)** The District Magistrates and Senior Superintendents of Police/Superintendents of Police are requested to make the arrangements for transmission of such prisoners on their release from jails to their respective places. The District Magistrates and Senior Superintendents of Police/Superintendents of Police are also requested to ensure that policies and guidelines of the Government regarding complete lockdown shall not be violated during the process of transmission and the policy of social distancing is complied with in true spirit.
- I)** As requested by the State Government and keeping in mind the topography of the State of Uttarkhand and following the policy of Government regarding social distancing, the time of 06 to 10 days from the date of filing the personal bond, shall be given for transmission of such prisoners on their release from jails to their respective places.
- J)** The Chief Medical Officer of concerned district shall be asked to ensure proper health check-ups of such prisoners/under-trials before their release on parole or interim bail. The concerned Chief Medical Officer is also requested to make necessary arrangements regarding the medical examination of such prisoners/under-trials after a week they are transmitted from the jail to the respective places. To give effect to this direction, the jail authorities are directed to provide the full addresses and the contact numbers of the prisoners/under-trials to the concerned Chief Medical Officers.
- K)** The Under Trial Review Committee at the District Level shall meet every week and take such decision in consultation with the concerned Authority as per the judgment in Re: Inhuman Conditions in 1382 Prisons (2016) 3 SCC 700. The meetings in person shall be avoided and instead telephonic

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conversation/Video Conferencing or data through e-mails etc. shall be preferred and used for achieving the intended results.

The above order shall come into force forthwith.

By Order of the Committee,

Sd/- 26/3/2020
(Dr. G.K. Sharma)

Member Secretary

Uttarakhand State Legal Services Authority
Nainital

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Dated: 26 March, 2020

Copy to: 1. The Secretary, Department of Home, Government of Uttarakhand, Dehradun.

2. Inspector General (Prisons), Government of Uttarakhand, Dehradun for information and necessary action.

3. All the Chairpersons, DLSAs/District Judges, District Courts, Uttarakhand for information and compliance with a request to coordinate with the concerned District Magistrates and SSPs/SPs. With further request to provide the copy of the order to District Magistrates and SSPs/SPs of the Districts concerned.

4. Director General, Medical, Health & Family Welfare, Government of Uttarakhand, Dehradun for information with a request to inform all the Chief Medical Officers for compliance. The chairperson of DLSAs District Judges/ District Courts, State of Uttarakhand are requested to provide the copy of this order the CMOs of Districts concerned.

Encl.: 1. Copy or order dated 23.03.2020, passed by Hon'ble Supreme Court.

2. List as Annexure-A.

3. List as Annexure-B.

(Signature)
(Dr. G.K. Sharma)