



**Most Urgent
Time Bound**

**Government of Punjab
Department of Jails
(Home-7 Branch)**

To,

1. All District & Sessions Judges in Punjab.
2. All Deputy Commissioners of Districts in Punjab.
3. All CPs/SSPs of Punjab.
4. All CMOs in Punjab.
5. All Superintendents of Jails in Punjab.

Memo no.12/16/2020-2H7/796-800

Date : 02-05-2020

Sub: Review meeting of the High Powered Committee held on 02-05-2020 under the Chairmanship of hon'ble Justice R.K. Jain, Judge, Punjab and Haryana High Court, Chandigarh.

Memo:

Kindly refer to Govt. of Punjab memo no. 12/16/2020-2H7/708-719 dated 26.03.2020.

2. The High Powered Committee constituted in pursuance of the directions of the hon'ble Supreme Court of India in SMWP (C) No.1/2020 (RE: Contagion of COVID-19) held a meeting on 02.05.2020 to review the implementation of the recommendations circulated vide letter under reference and to take up additional agenda items.

3. The following additional **Agenda Points** were discussed:

- A. Extension of Interim-bail granted to under-trials by HPC;
- B. Extension of Parole granted to convicts by HPC;
- C. Consideration of liberal bail for people being arrested;
- D. Extended criteria and procedure for release of convicts and under-trials to further de-congest the jails.

4. The Minutes-of-Meeting is hereby forwarded to all concerned to ensure immediate steps are initiated for implementation of the recommendations contained therein.

Encls: As above.


Principal Secretary, Jails

Endst No. 12/16/2020-2H7/801-807

Dated Chandigarh, the 02-05-2020

A copy of the Minutes-of-Meeting is forwarded to the following for information.

1. Chief Secretary, Govt. of Punjab.
2. Addl. Chief Secretary, Home, Govt. of Punjab.
3. Principal Secretary, Health & Family Welfare, Punjab.
4. Director General of Police, Punjab.
5. Addl. Director General of Police, Prisons, Punjab.
6. Registrar General, Punjab & Haryana, High Court, Chandigarh.
7. Member Secretary, PULSA for information of Hon'ble Executive Chairperson, PULSA.

Encls: As above.


Principal Secretary, Jails

Minutes-of-the-meeting of review meeting of High Powered Committee held under the Chairmanship of Hon'ble Mr. Justice R.K. Jain, Judge, Punjab and Haryana High Court, Chandigarh and Executive Chairman, Punjab State Legal Services Authority, Chandigarh, at his residence on 02 May, 2020 at 10:30 hrs.

A meeting of the High Powered Committee to review the actions taken pursuant to its recommendations circulated vide Principal Secretary, Department of Jails memo no. 12/16/2020-2H7/708-719, dated 26-03-2020 was held on 01 May, 2020.

The meeting was attended by the following officers/members of the High Powered Committee:

1. Mr. R. Venkat Ratnam, IAS, Principal Secretary to Government of Punjab, Jail Department, Punjab.
2. Mr. Praveen K. Sinha, IPS, Additional Director General of Police, Prisons, Punjab.
3. Ms. Rupinderjit Chahal, Member Secretary, PULSA.

Action taken on Previous Recommendations:

2. ADGP, Prisons briefed the Committee regarding the actions taken in compliance of decisions taken/recommendations made during its last meeting of the Committee held on 25-03-2020. Details of the Actions Taken and the observations of the Committee on each is placed at **Annexure-A**. Further actions on the observations of the Committee may be taken by the respective officers as noted against each.

Additional Steps taken by Prison Department beyond the Directions/recommendations:

3. ADGP (Prisons) informed the Committee that the following additional steps have been taken by the Prisons Department for safety of jails qua COVID-19 epidemic:

3.1. Four Special Jails have been notified by the Government, and all new admissions are being taken to these four jails situated at Bathinda, Barnala, Patti and Ludhiana. Women Jail Ludhiana has been earmarked exclusively for women arrested anywhere in the State. The women prisoners arrested prior to 16-02-2020 have been shifted to Sub-Jail Pathankot to reduce the risk to contagion.

- 3.2. A Standard Protocol has been notified and circulated to respond to any situation where a COVID-19 positive case is detected in any prison.
- 3.3. An Alternate Isolation Facility has been identified and notified for each prison in the State where prisoners from the respective jail can be isolated in case a COVID-19 positive case is detected in any prison.
- 3.4. The Committee observed that the steps taken are appreciable, and in future too, all required measures to keep the jails safe be taken by the Jail Department.

New Agenda Points taken up by the Committee:

4. The Committee deliberated upon the following issues of concern concerning the safety of prisons. Upon detailed deliberations, the Committee recommends that the following steps/actions be taken with immediate effect by the different authorities indicated below in light of the situation of spread of COVID-19 in India.

5. **Extension of interim bail granted to under-trial prisoners as per criteria fixed by HPC-** Under-trial prisoners released on interim bail for 6 weeks will be due for return to the jails shortly. In the prevailing COVID-19 situation in India, re-admitting around 3000 prisoners released on interim bail, back into the jails has enormous risks and will defeat the whole purpose of releasing them.

5.1. The Committee recommends that the concerned judicial officers shall extend the interim bail granted to them by another 6 weeks, and may be further extended till such time that the notification under the Epidemic Diseases Act, 1897 is in force. Also, the District & Sessions Judges may co-ordinate with the respective Addl. District and Sessions Judges/Judicial Magistrates and Jail Superintendents to ensure the return of the under-trials to the jails takes place in a staggered manner, with not more than 50-60 under-trials returning on any particular day to larger jails, and 15-20 to smaller jails to facilitate proper screening before re-admission into the prison.

[Action: All D&SJs in Punjab; All Jail Supdts.]

6. **Extension of 6-weeks' parole granted to convict prisoners as per criteria fixed by HPC-** Convict prisoners released on parole for 6 weeks will also be due for return to the jails shortly. In the prevailing COVID-19 situation in India, re-admitting around 3000 convict prisoners released on parole, back into the jails has enormous risks and will defeat the whole purpose of releasing them.

6.1. The Committee recommends the following in case of convicts presently on parole:

- (a) Jail Superintendents of the jails from where the prisoner proceeded on parole be delegated the power to extend the parole of prisoners on parole by 6-weeks, and may be further empowered to extend the parole, with approval of ADGP (Prisons), till such time that the notification under Epidemic Disease Act, 1897 is in force.

[Action: Principal Secretary, Jails]

- (b) To ensure that the re-admission of convicts released on parole back into the respective jails takes place in a staggered manner, Jail Superintendents may be further empowered to extend the parole of any convict upto 7 days. ADGP (Prisons) shall issue a Circular to ensure transparency and equity in the process to be followed.

[Action: Principal Secretary, Jails]

- (c) To enable release of convicts on parole for more than 16-weeks in a calendar year, the Committee recommends that Sub Section 2-A of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, be suitably amended. The following proviso, proposed to be inserted in Sub Section 2-A of Section 3 of the Act by way of an Ordinance, was examined by the Committee and found to be in order:

"Provided further that during disasters notified under the Disaster Management Act, 2005, or epidemics notified under the Epidemic Diseases Act, 1897, the Government may, by a special notification, allow parole beyond the maximum period of sixteen weeks during a calendar year, and may also waive the conditions of Parole being availed on quarterly basis."

[Action: Principal Secretary, Jails]

- (d) In case the Amendment to Sub Section 2-A of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, by way of an Ordinance takes time, and the return dates of the convicts released on parole draws near, Jail Superintendents may extend the parole of the convict for as many days as the convict is eligible in the current calendar year under the extant provisions. Once the Amendment is notified, the parole can be further extended for the remaining period. Total extension of parole shall be for 6-weeks until extended further by a general order.

[Action: All Jail Superintendents]

7. **Harm minimisation in the event of a COVID-19 positive prisoner detected in a Prison** - As per Standard Protocol, all prisoners in the Barrack/Block where the prisoner tested positive was residing, shall be shifted to an Alternate Isolation Facility. With a view to ensure safety of other prisoners in the jail, it would be desirable that those prisoners who have been taken to an Alternate Isolation Facility, are released on parole/bail as far as possible. The Committee recommends that in such an eventuality, case for release of prisoners isolated in the Alternate Isolation facility shall be immediately processed/forwarded by the Jail Superintendent for release on bail or parole. Keeping in view the severity and gravity of the offence, release on bail/parole may be considered in such cases.

[Action: All D&SJs in Punjab; all Jail Supdts]

8. **Extended Criteria and Procedure for release of Under-trial Prisoners**- In addition the previous recommendations, the Committee recommends that the following under-trial prisoners be considered for release on 6-weeks' interim bail, and further extended till such time that the notification under the Epidemic Diseases Act 1897 is in force:

8.1 Cases u/s 326 IPC and 307 IPC which are not of serious nature – to be dealt on a case-to-case basis by the concerned Judicial Magistrate; with the additional condition that the accused should be in custody in only one case, i.e, he should be on bail in all other cases, if any.

8.2 All under-trial prisoners in custody suffering from the following chronic diseases or pre-existing conditions, and under treatment for the same for at least one year prior to the date of release:

- Chronic diabetes;
- HIV;
- Serious neurological issues (not simple depression);
- Chronic lungs disease;
- Severe asthma;
- Serious heart conditions;
- Pregnant women may also be considered.

Whether the under-trial falls under the above category or not shall be as per the report of the jail Medical Officer and further certified by an SMO or the CMO.

[Action: All D&SJs ; all CMOs]

8.3 **Release of Under-trial prisoners under NDPS Act:**

Criteria: Under-trial prisoners in NDPS Act cases arrested for intermediate quantity violations except where additional sections like 307 IPC, assault on public servants, intimidation to informers/witnesses have been imposed, may be released on interim bail of 6-weeks. In very

important cases, inputs from concerned police district/unit may be sought before deciding the case.

Procedure:

- (a) Under-trials under NDPS Act cases shall execute bond, in addition to other formalities, under section 107/110 CrPC 1973 to the effect that: he/she will not do any wrongful act/commit any offence and maintain good behaviour during the period of his/her interim bail; and that he/she will remain strictly confined to his/her home during the period of interim bail and under no circumstances, other than to obtain de-addiction treatment or attend to medical emergency, shall leave his/her house.
- (b) In the interim bail order, condition that the person shall be confined strictly to his/her home during the period of interim bail and under no circumstances other than to obtain de-addiction treatment/ medical emergency shall leave the place of residence shall be specified.
- (c) The Jail Superintendent shall inform concerned CP/SSP of the district regarding the details of all such persons released on interim-bail well in time.
- (d) The police station where the place of residence is situated, shall maintain personal files (and associated documents) for all such persons it under PPR 23.13. Whenever any such person is released, his/her latest photograph, permanent mobile number, description and address should also be provided to the concerned police station. Police stations shall maintain a regular check on these persons throughout the period of interim-bail. In case of any violation of bail conditions suitable action shall be initiated.
- (e) The Local police station shall inform the panchayats/councils in their jurisdiction about the release of such person on the grounds of preventing a health problem in jails, that such release is temporary, that the person shall be confined to the home and that a watch be kept to prevent any repeat offence/violation of conditions of interim bail and if such violation occurs the same should be reported to the police station for further action.
- (f) Persons who are residents in other States shall not be released.
- (g) The Superintendent of concerned Jail/Executive Magistrate deployed for taking surety bonds shall forward the bonds to the concerned Executive Magistrate/Sub-Divisional Magistrate and Police Station having jurisdiction over the place of residence of the person released on interim bail.

[Action: All D&SJs in Punjab; All CPs/SSPs; All Jail Supdts]

9. **Extended Criteria and Procedure for release of Convict Prisoners:**

9.1 All District Magistrates shall ensure that all cases for parole pending with them are decided immediately on priority. In future, all new cases of parole should be decided by them within four (4) days of receipt. For cases pending outside Punjab, a copy of these proceedings shall be forwarded by the Jail Superintendent to the concerned District Magistrate for ensuring early decision in pending cases as per time-lines mentioned above.

[Action: All District Magistrates in Punjab]

9.2 **Release of Convict prisoners under NDPS Act:** Convicts under NDPS Act cases may be released on 6-weeks' parole, and may be further extended till such time that the notification under The Epidemic Diseases Act 1897 is in force, as per the following criteria and procedure:

Criteria:

Convicts in NDPS cases who have been convicted for upto 5 years, with or without fine; should not have any other case pending against them; and must have completed at least 75% of the total sentence. In very important cases, inputs from the concerned police district/units may be taken before release on parole.

Procedure:

- (a) Convicts under NDPS Act cases shall execute bond under section 107/110 Cr.P.C. 1973 to the effect that:
- (i) he/she will not do any wrongful act/commit any offence and maintain good behaviour during the period of his/her parole;
 - (ii) he/she will remain strictly confined to his/her home during the period of parole and under such circumstances, other than to obtain de-addiction treatment or attend to medical emergency, shall leave his/her house.
- (b) In the parole conditions, it shall be specified that the person shall be confined strictly to his/her home during the period of parole and under no circumstances other than to obtain de-addiction treatment/ medical emergency shall leave the place of residence.
- (c) The Jail Superintendent shall inform concerned CP/SSP of the district regarding the details of all such persons released on parole well in time.

- (d) The police station where the place of residence is situated, shall maintain personal files (and associated documents) for all such persons it under PPR 23.13. Whenever any such person is released, his/her latest photograph, permanent mobile number, description and address should also be provided to the concerned police station. Police stations shall maintain a regular check on these persons throughout the period of interim-bail. In case of any violation of bail conditions suitable action shall be initiated.
- (e) The Local police station shall inform the panchayats/councils in their jurisdiction about the release of such person on the grounds of preventing a health problem in jails, that such release is temporary, that the person shall be confined to the home and that a watch be kept to prevent any repeat offence/violation of conditions of parole and if such violation occurs the same should be reported to the police station for further action.
- (f) Persons who are residents in other States shall not be released.
- (g) The Superintendent of concerned Jail/Executive Magistrate deployed for taking surety bonds shall forward the bonds to the concerned Executive Magistrate/Sub-Divisional Magistrate and Police Station having jurisdiction over the place of residence of the person released on parole.

[Action: All Jail Superintendents]

9.3 All convicts in custody suffering from the following chronic diseases or pre-existing conditions, and under treatment for the same for at least 1 year prior to the date of release, may be released on 6 weeks' parole, and may be further extended till such time that the notification under The Epidemic Diseases Act 1897 is in force:

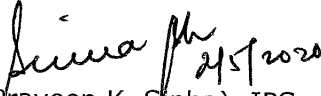
- Chronic Diabetes
- HIV
- Serious neurological issues (not simple depression)
- Chronic lung disease
- Severe Asthma
- Serious Heart condition.
- Pregnant women may also be considered.

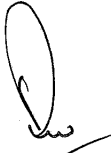
Whether the patient falls under the above said category or not, shall be as per the report of the Jail Medical Officer and further certified by an SMO or the CMO.

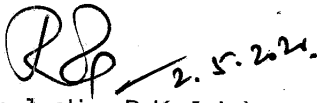
[Action: All Jail Superintendents ; all CMOs]

10. The Committee, as a final recommendation, reiterates that all the above recommendations be implemented expeditiously to ensure the intended benefits accrue in the true spirit in which the recommendations have been put forth.

The meeting ended with thanks to the Chair.


(Praveen K. Sinha), IPS
Addl. Director General of
Police,
Prisons, Punjab, Chandigarh.


(R. Venkat Ratnam), IAS
Principal Secretary,
Jails, Punjab, Chandigarh.


(Mr. Justice R.K. Jain)
Chairperson,
Punjab State legal Services
Authority, SAS Nagar, Pb.

Action Taken Report

Recommendations of High Powered Committee constituted as per the directions of the Hon'ble Supreme Court of India in Sou Motu Writ Petition (Civil) No. 1/2020 – In RE: Contagion of COVID-19 Virus in Prisons were circulated vide Principal Secretary, Department of Jails memo no. 12/16/2020-2H7/708-719, dated 26-03-2020.

The actions taken of the directions of the Hon'ble Supreme Court of India and other recommendations of the High Powered Committee are as follows:

Direction #1: *Physical presence of all under-trial prisoners before the courts must be stopped forthwith, and recourse to Video Conferencing must be taken for all purposes.*

Action Taken: As courts are functioning through video-conferencing, all physical presence of under-trial prisoners have been stopped. No further compliance is required in this matter. When courts start functioning normally with physical appearance of lawyers, a strategy will need to be developed by the courts in conjunction with the prisons to limit the number of witnesses and accused appearing physically in the Courts.

The Committee felt that it is important that physical presence of accused and witnesses will need to be reduced to the minimum even after the lockdown/curfew is lifted. To facilitate this, a robust infrastructure for trial and *peshi* by video-conferencing needs to be put in place on the Jail-end corresponding to that installed on the Court-end. Larger prisons may need to install numerous sets of equipment and create suitable infrastructure for trials in different courts to be conducted simultaneously. The Committee recommends that the State Government may immediately take steps for installation of sufficient video-conferencing equipment and related infrastructure at all jails, as soon as possible. This infrastructure shall be of high utility even after all restrictions are lifted, as trial through video-conferencing should be the norm in future.

[Action: Principal Secretary, Jails]

Direction #2: *No routine transfers of prisoners from one prison to another except for de-congestion to ensure social distancing and medical assistance to an ill prisoner.*

Action Taken: In addition to the transfer done to decongest jails, prisoners have been transferred only under exceptional circumstances as under:

- (i) To maintain law & order inside prisons, certain prisoners creating indiscipline and/or instigating other prisoners to indulge in violence or indiscipline were shifted to break the groups.
- (ii) Four (4) Special Jails have been created for new admission prisoners. Existing prisoners of these jails were shifted to other jails while maintaining proper social distancing and taking all other precautions. Similarly, existing prisoners of Women Jail were shifted to segregate them from the new admission.

The Committee reiterates that the directions of the Hon'ble Supreme Court of India in this regard be complied with in future also, and transfer of prisoners may be resorted to in rare cases and under compelling circumstances only, and in all cases, necessarily under specific orders of the ADGP (Prisons).

[Action: ADGP (Prisons); all Jail Superintendents]

Direction #3: *No delay in shifting sick person to a Nodal Medical Institution in case any possibility of infection is seen.*

Action Taken: Immediate medical attention is being provided to all prisoners who have required the same. Some additional doctors have been provided by the Health Department at the different jails, but additional doctors and other health staff are required at the Special Jails, for which the matter has been taken up with the Health Department.

The Committee directs that due caution and vigilance be maintained at the jail level; and Health Department, Govt. of Punjab may provide additional medical staff at the earliest.

[Action: Principal Secretary, Health; All Jail Superintendents]

Direction #4: *Prison specific readiness and response plans must be developed in consultation with medical experts. The Hon'ble Supreme Court has directed that "Interim Guidance on Scaling-Up COVID-19 Outbreak Readiness and Response Operations in Humanitarian Situations" published by IASC of UN dated 17-03-2020 may be taken into consideration.*

Action Taken: Jail specific 'Readiness and Response Plan' for all Jails has been prepared and all concerned officials have been briefed about their roles.

The Committee desired that the Readiness and Response Plan be rehearsed regularly through mock drills to ensure proper response at time of an emergent situation developing.

[Action: All Jail Superintendents]

Direction #5: *Monitoring team must be set up at the state level to ensure that the directives issued with regard to prison (and remand homes) are being complied with scrupulously.*

Action Taken: State Level Monitoring Team under ADGP (Prisons) and District Level Monitoring Teams under respective Divisional Commissioners have been constituted. These teams are regularly reviewing the progress.

The Committee directed that the State and District Level teams should meet regularly and ensure close monitoring of implementation of all directions issued for keeping the prison safe from COVID-19.


[Action: ADGP (Prisons); all Divisional Commissioners]

Direction #6: *Each State/UT to constitute a High Powered Committee to determine which class of prisoners can be released on parole, or on interim bail, for such period as may be thought appropriate. The Committee shall comprise of:*

- (a) *Chairman of the State Legal Services Committee;*
- (b) *The Principal Secretary (Home/Prisons)*
- (c) *Director General of Prisons.*

Action Taken:

Release of prisoners as per the recommendations of the High Powered Committee dated 26-03-2020: The Committee was informed that the following no. of prisoners (convicts and under-trials) have been released between 26-03-2020 and 20-04-2020 in accordance with the criteria and procedure laid down by the High Powered Committee:



Released prisoners	UTs	CTs	Total
Under NDPS Act	1592	1380	2972
U/s 379 IPC	1390	207	1597
Others	408	954	1362
Total no. of prisoners released	3390	2541	5931

The Committee observed that appreciable progress has been made and the efforts put in by the judicial officers, executive magistrates, police officials and prison officials are commendable. High performers among all these categories should be recognized and rewarded by the respective departments.

[Action: All D&SJs; all DCs; all CPs/SSPs; all Jail Supdts.]

Direction #7: *The Under-trial Review Committee of each district shall meet every week (instead of every quarter at present) and take such decisions in consultation with the concerned authority as per the said judgement.*

Action Taken: Under-trial Review Committees have been meeting frequently, but in some cases not on a weekly basis as per data available with the Prison Department.

The Committee directed that the District & Sessions Judges of all districts should ensure that meeting of the UTRCs are held every week as per the directions of the Hon'ble Supreme Court of India.

[Action: All District & Sessions Judges in Punjab]

Action taken on other recommendations of HPC:

Directions: The High Powered Committee had directed that WhatsApp Mulaqaat be started for prisoners and that senior judicial officers and Secretary DLSA should regularly visit the prisons to listen to the grievances of the Prisoners.

Action Taken: ADGP (Prisons) informed that *mulaqaat* of prisoners with their families is being facilitated in all Jails through WhatsApp in addition to the Vidyo App through ePrisons. Also, whenever there have been instances of disorder in the jails, respective District and Sessions Judges and Secretary DLSA have been proactively engaging themselves in finding a resolution.

The Committee observed that due to the extension in the curfew, the disorderliness in the inmates is only likely to increase in the future, and all officials will need to be more actively involved in finding due resolution of the issues as and when they arise.

[Action: All D&SJs in Punjab; all Jail Supdts.]

Singh
21/5/2020