

NO 1/889/88-1117/ 23526

Government of Punjab

Department of Home Affairs and Justice (Home -7 Branch)

To

- 1) The Inspector General of Prisons, Punjab, Chandigarh.
- 2) All the District Magistrates, in the State.
- 3) All the Senior Superintendent of Police, in the state.

Dated: Chandigarh . the 8th. July 1991.

Subject: Policy for grant of remissions of sentence of life imprisonment under Section 432, 433 and 433(A) of the Code of Criminal Procedure and Article 161 of the Constitution of India.

Sir,

I am directed to refer to the subject note above and to say that the matter regarding review of policy for the grant of remissions of sentences of life imprisonment under Section 432, 433, and 433(A) of the Code of Criminal Procedure and Article 161 of the Constitution of India, has been under the consideration of the State Government for some time and after deliberating upon all the relevant aspects, the Government have decided as under:-

- 1.1 Minimum periods of imprisonment to be undergone for a convict before consideration of application for exercise of powers of the Government under Article 161 of the Constitution.
Cases will be considered by the Government for grant of remission after the following periods of imprisonment are undergone by the convict.

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Periods in years

A		B		C		D		E		
For convicts whose death sentence has been commuted to life imprisonment.		Convicts who have been imprisoned for life for offences for which death is a punishment and have committed heinous crimes.		Convicts who have been imprisoned for life for offences for which death is a penalty but crimes are not considered heinous.		Other life convicts imprisoned for life for offences for which the death penalty is not a punishment and have committed heinous crimes.		Other life convicts.		
Act ual impri son ment	Imp sonm ent with remi ssion	Act ual imp rison ment. remi ssion	Imp ison ment with remi ssions	Act ual imp rison ment remi ssion	Imp rison ment with remi ssion.	Act ual impri son ment. remi ssion	Imp rison ment with remi ssion	Act imp rison ment	Imprisonment with remission.	
Males	14	20	12	18	10	14	10	14	8 $\frac{1}{2}$	14
Females/ Total	10	14	8	12	8	12	8 $\frac{1}{2}$	12	5	10

- A) Heinous crimes with reference to column ' B ' of 1(I) above are defined as follows:-
- i) Offence under Section 302 alongwith 347 of the I.P.C. i.e murder with wrongful confinement for extortion.
 - ii) Section 302 with 375, i.e. murder with rape.
 - iii) Offence under Section of IPC i.e dacoity with murder.
 - iv) Offence under Section 302 alongwith offences under the Terrorist and Disruptiv Activities(Prevention) Act 1987.
 - v) Offence under Section 302 alongwith offence under the Untouchability (Offences) Act, 1955.
 - vi) Offence under Section 302 where murder has been committed in connection with any dispute over dowry and this is Indicated in the Judgement of the Trial Court.
 - vii) Offence under Section 302 where the victim is a child under age of 14 years.

viii) Any conviction under Section 120-B of the IPC heinous crimes with reference to column ' D ' of the revised policy are defined as follows :

- i) Offence under Section 304(b) of the IPC, i.e a dowry death.
- ii) Offence under Section 304 alongwith Section 347 of the IPC, i.e. culpable homicide with wrongful confinement for extortion.
- iii) Offence under Section 304 with Section 375.i.e culpable homicide with rape.
- iv) Offence under Section 304 alongwith offence under the Terrorist and Disruptive Activities (Prevention) Act. 1987).
- v) Offence under Section 304 where culpable homicide has been committed in connection with any dispute on dowry and this is indicated in the judgement of the trial court.
- vi) Offence under Section 304 where the victim is a child under the age of 14 years.
- vii) Any conviction under Section 120 -B of the IPC i-e for criminal conspiracy in connection with the above crimes.

B. Adults are defined as persons above the age of 18 years.

II. The cases of premature release will only be considered provided the convict has maintained good conduct in jail. For this purpose good conduct means that he has not committed any jail offence for a period of 5 years prior to the date of his eligibility for consideration for release as per para 1.I above.

III. Cases for premature release will only be considered if the Government is satisfied that in the event of release of the convict there is no likelihood of the convict committing a crime or breach of peace

IV) The Government reserves the right to exercise its powers under Article 161 of the Constitution in any way it deems fit.

2. Procedure to be followed :-

- 1) On becoming eligible for consideration for premature release under Article 161 of the Constitution as per para -I of the Policy the convict must submit a petition to the Governor indicating the grounds on which he desires his case to be considered for premature release.
- ii) The State Government shall refer the petition to the Inspector General of Prisons, for preparing the case in the prescribed format for verification of details of imprisonment as well as for a report of good behaviour.
- iii) A copy of the petition shall simultaneously be forwarded to the District Magistrate, for a verification of the contentions made in the petition and a report regarding the likelihood of commission of breach of peace for crime by the convict which is connected with the circumstances of the crime originally committed by him. For this purpose, inter-alia, the following will be taken into account.:-
 - a) The behaviour of the convict during periods of parole.
 - b) The view of the local panchayat.

The actual verification and report regarding likelihood of commission of breach of peace or crime shall be made personally by the concerned Station House Officer and the report shall be sent under his signature to the District S.P.

(SS) Further the District S.P. (SSP) shall

forward it under his own signatures to the District Magistrate, who shall further send it to the Government under his own signatures.

These duties shall not be delegated by the District Magistrate, and the District S.P. (SSP) and the S.H.O. .

vi) On receipt of the report from the I.G. Prisons, as well as the District Magistrate, the State Government will decide the petition in accordance with the policy laid down.

3. As regards the policy for dealing with premature release under Section 432 and 433, this will be identical to the policy proposed for deciding cases under Article 161 of the Constitution, with the following difference.:

The minimum period of actual imprisonment to be undergone before a case for premature release is considered will be as follows:-

A	B	C	D	E
For convicts whose death sentence has been commuted to life imprisonment.	For convicts who have been imprisoned for life for offences for which death is a punishment and have committed heinous crime.	For convicts who have been imprisoned for offences for which death is penalty but crimes are not considered heinous	For other life convict imprisoned for life for offences for which death penalty is not a punishment and have committed heinous crime.	Other life convicts.

	Actual imprisonment commuted.	Imprisonment with remission.	Actual imprisonment.	Imprisonment with remission.	Actual imprisonment.	Imprisonment with remission.	Actual imprisonment.	Imprisonment with remission.	Actual imprisonment.	Imprisonment with remission.
14	20	14	20	14	20	10	14	8 $\frac{1}{2}$	14	
14	20	14	20	14	20	8	12	6	10	

As regard procedure it would not be necessary for the convict to submit his petition on completion of the required number of years of actual imprisonment. The I.G. Prisons, would send the case of the concerned convict to Government on or after the eligibility date which would then obtain the report of the District Magistrate and take appropriate decision.

As regards the prisoners convicted before 18-12-1978, the minimum periods of actual imprisonment will be the same as proposed for cases to be considered under Article 161 of the Constitution as in para I.I above.

4. This policy will supersede instructions contained in the following Government circulars:+

- i) Memo No. 13311-6JJ-71/39656, dated 10-11-1971
- ii) Memo No. 403-6JJ-76/ 3456, dated 30-1-1976
- iii) Memo No. 2874/6JJ-77/17811, dated 12-5-1977
- iv) Memo No. 8530-6JJ-78/21318, dated 9-6-1978
- v) Letter No. 12/456 /81-5JI /22279, dated 3-12-1982
- vi) Memo No. 12/192/83-5J / 32987, dated 12-12-1985.
- vii) Memo No. 12/49/84-4J/34888-90 dated 29-12-1986

Para 516 -B of the Punjab Jail Manual will be deemed to have been amended accordingly.

Sd/-

B.D. Aggarwal

Joint Secretary Home (B)
dated Chandigarh the 8th. July 1991.
No. 1/889/88/I H-7-23527

A copy is forwarded to all the Superintendents of Central and District Jails in the state for information and necessary action

Sd/

B.D. Aggarwal
Joint Secretary Home (B)