

**MOST IMMEDIATE
FOR STRICT COMPLIANCE**

THROUGH E-MAIL

From

The Director of Prosecution, Haryana
Bays No. 9 - 10, Sector-14,
Panchkula

To

All District Attorneys,
posted at District Level
in the State of Haryana.

Memo No. AP (7)-2019/ 11732-11753

Dated: 28/06/19

**Subject:- To ensure the presence of accused persons lodged in different jails
before the Ld. Trial Court on the day of hearing.**

Reference on subject cited above.

Whereas it is hereby informed that the State Govt. has framed a policy of securing the presence of accused persons in the criminal court through Video conferencing vide order No.46/24/2018-4JJ(II) dated 06.12.2018 and also issued advisory vide memo No.33/01/2019-4JJ(II) dated 23.04.2019. (copies enclosed)

All of you are directed to make strict compliance of this policy/ advisory in its true spirit.

Note: Copy of this policy/ advisory is also available at the Departmental website i.e. prosecutionhry.gov.in.


District Attorney

for Director of Prosecution, Haryana, Panchkula

Endst. No. AP(7)-2019/ 11754

Dated: 28/06/19

A copy is forwarded to the Additional Chief Secretary to Government of Haryana, Jails Department for information please in reference to your good office order issued under Endst. No. 46-24/2018-4JJ(2) dated 06.12.2018 and memo No. 33/01/2019-2JJ(2) dated 23.04.2019.


District Attorney

for Director of Prosecution, Haryana, Panchkula

HARYANA GOVERNMENT
JAILS DEPARTMENT
ORDER

No. 46/24/2018-4JJ(II)

Dated Chandigarh the, 06 December, 2018

In compliance of the orders dated 23.10.2018 of the Hon'ble Punjab & Haryana High Court, Chandigarh passed in CRM-M-No. 12099 of 2018 case titled as "Naushad @ Hira Vs. State of Haryana" the Government has framed a policy for securing the presence of accused persons in the criminal courts through Video Conferencing as under :-

1. POLICY GUIDELINES FOR ACCUSED PERSONS LANGUISHING IN THE JAILS OF HARYANA, WHO ARE TO BE PRODUCED BEFORE THE CRIMINAL COURTS SITUATED IN HARYANA.

" The facility of Video Conferencing is available in all the jails and the trial Courts situated in the State of Haryana and the accused persons, who are in custody in the jails situated in the State of Haryana are appearing either in person or through video Conferencing before the Trial Courts from time to time. Further, all the jails and Courts in the State of Haryana are connected with Video Conferencing facilities. However, the system needs to be regulated for its smooth functioning for which the guidelines following and suggestions are issued":-

- i. The Superintendent of Jail shall also act as the District Nodal Officer for each district for monitoring and co-ordinating the process of production of accused persons through video conferencing or on production warrant in person before the Trial Court and shall act as co-ordinator between the jail authorities and criminal courts. He shall ensure that every accused person should be produced before the Trial Court on time through video conferencing or on production warrants in person as the case may be.
- ii. As and when any jail authority receives production warrant/summons of any accused person for producing him in Court for trial or otherwise, the concerned jail authority, if unable to produce such

contd.-P-2-

- accused in person before the Court on the date fixed for any reason, shall immediately intimate the concerned Court telephonically or through e-mail that the accused person shall be produced through video conferencing before the concerned Courts and also intimate to the District Nodal Officer, who shall make such arrangements for production of accused person through video conferencing before the concerned Court.
- iii. The Director General of Prison, Haryana shall depute an officer not below the rank of I.G. to be the State Nodal Officer for co-ordinating and monitoring the process of production of accused person in the Court through video conferencing or on production warrant in persons, who are lodged in different jails of the State of Haryana and shall ensure that every accused person should be produced before the Trial Court on time through video conferencing or on production warrants in person as the case may be.
- iv. That State Nodal Officer device a suitable program and shall obtain monthly information from the District Nodal Officers regarding production of accused persons in Courts, and submit the same alongwith his comments to the Director General of Prisons, Haryana.
- v. The Director General of Prisons, Haryana, shall hold regular meetings at least once in a quarter, of all the District Nodal Officers and review their working for ensuring timely production of accused persons in the Court for trial or other proceedings and shall immediately take remedial measures wherever any deficiency comes to his notice.
- vi. If any Jail Authority receives production warrants/summons of any accused person for producing him in Court for trial or otherwise, but the said accused has been transferred to any other Jail for any reason, such Jail authority shall immediately intimate the Court, the detail of that Jail in which such accused person has been transferred, so that the Court shall issue warrant/summon for production of accused person to the other Jail authority where accused is kept in custody.
- vii. The internet connectivity speed should be sufficiently high for all video conferencing systems established in Jails as well as Courts, so that

proceedings of Court cases may be held without any technical hindrance.
viii. There should be facility of power back-up for holding video conferencing in the jails as well as Court premises, so that Court proceedings may be conducted without any interruption due to power failure.

ix. Video conferencing studios may be established in each of the Court rooms.

x. Sufficient number of Video conferencing systems should be established in jails. Provision for multi-video conferencing should be made in every Jail and Court, so that two or more cases may be conducted through video conferencing at the same time.

**2. POLICY GUIDELINES FOR ACCUSED PERSONS
LANGUISHING IN THE JAILS OF OTHER STATES, WHO ARE TO
BE PRODUCED BEFORE THE CRIMINAL COURTS SITUATED IN
HARYANA**

As far as the matter relates to the accused persons who are in the jails of the other States i.e. Punjab, Delhi, Himachal Pradesh, Uttar Pradesh, Rajasthan etc. and are required to be produced before the Trial Court in the State of Haryana, sometime jail authorities of other States fail to produce the accused persons before the Trial Courts either in person or through Video conferencing, which causes delay in conclusion of the Trial as no video conferencing system has been established for production of such accused though video conferencing in the jails of many States. For such cases, the Govt. of India is the appropriate authority for taking necessary steps for establishment of video conferencing systems for production of such accused through video conferencing in the Trial Courts where accused persons are languishing in jails of one State while the trial is pending against them in another State, being an inter-state matter.

I order accordingly. A copy of this framed policy be endorsed to all the concerned.

Dated Chandigarh
The, 30.11.2018

Dr. S.S.Prasad
Addl. Chief Secretary to Govt. of Haryana,
Jails Department

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from pre page:-

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Endst.No. 46/24/2018-4JJ(II)

Dated Chancigarh the 06.12.2018

A copy of the above is forwarded to the following for information & necessary action.

1. The Advocate General, Haryana, Chandigarh.
2. The D.G. Prisons, Haryana, Panchkula w.r.t. his letter \no. 43483-84 DG.Jails/2018/Legal Cell dated 03.04.2018.
- ✓ 3. The Director Prosecution of Haryana, Panchkula w.r.t. his letter No. AP(7)-2018/22210 dated 05.11.2018 with the advice to file response in the subject cited matter before the Hon'ble Punjab & Haryana Hhigh Court, Chandigarh on or before the due date fixed for hearing on 13.12.2018.

Asimonia
Superintendent Jails & Judicial -II
Addl. Chief Secretary to Govt. of Haryana,
Jails Department *me*

CC

PS/ W/ACS(H)
PS/ W/SSH-II

From

The Additional Chief Secretary to Government,
Haryana, Jails Department, Chandigarh.

To

1. The Legal Remembrancer and Administrative Secretary to Government of Haryana, Law and Legislative Department, Haryana Civil Secretariat, Sector-1, Chandigarh.
2. The Director General of Police, Haryana, Sector-6, Panchkula.
3. The Director General of Prisons, Haryana, Sector-14, Panchkula.
4. The Director General of Police, Crime, Haryana.
5. The Director General of Prosecution, Haryana, Sector-14, Panchkula.
6. All Commissioners of Police in Haryana.
7. All Superintendents of Police/DCPs in Haryana.
8. All District Attorneys in Haryana.
9. All Superintendents Jail in Haryana.

Memo No.33/01/2019-4JJ-II

dated 23.04.2019.

Subject:

Production of under trials lodged in different jails before Ld. Trial Courts, particularly those lodged in different jails or are not being produced-Regarding-Advisory.

Reference on the subject cited above.

2. It has been observed that the statutory provisions regarding production of under-trials lodged in different jails of the State before the concerned Ld. Trial Courts are not being followed properly. (Chapter 18 of the Punjab Police Rules, 1934 lays down detailed guidelines for escort of prisoners. Similarly, the Prisoners (Attendance in Courts) Act, 1955 and Punjab Prisoners (Attendance in Courts) Rules, 1969 provided detailed guidelines for attendance of under-trial prisoners in Courts.

3. In compliance of the Hon'ble Supreme Court orders dated 17.02.2017 passed in Writ Petition (Civil) No. 406/2013 titled as Inhuman Conditions in 1382 Prisons, the Haryana State Legal Services Authority has constituted an Undertrial Review Committee at district level to consider the cases of the undertrial prisoners U/s 436-A of Cr.P.C. Meeting of the Committee and being held on monthly basis to chalk out the methods to dispose of cases U/s 436-A of Cr.P.C expeditiously under the chairmanship of Ld. District & Sessions Judge of the concerned district for the timely disposal of the cases of the undertrial prisoners who are lodged in different jails or are not being produced in courts. In this regard, the following guidelines be adhered to:-

- i. Each Police District and Police Commissionerate shall establish a Special Cell at Headquarters for monitoring the production of under-trials in Ld. Trial Courts. A Nodal Officer of the rank of Additional Superintendent of Police/ Additional Deputy Commissioner of Police/ Deputy Superintendent of Police/ Assistant Commissioner of Police shall be deputed by the concerned SPs/CPs, under intimation to the Director General of Police/Additional Director General of

Police/Crime who shall monitor compliance of these instructions by the SPs /CPs. The name and full contact details (E-mail Id, Mobile etc.) of the Nodal Officer shall also be informed to the Superintendents Jail and District Attorneys. The Nodal Officer shall be responsible for ensuring service of process to witnesses, and securing the presence of all accused persons in the Ld. Trial Courts for production of wherever there is a specific order by the Ld. Trial Courts for production of witnesses, the Nodal Officer shall ensure compliance of the same.

(Action by all CPs/DCPs/SPs, Monitoring by DGP/ADGP/Crime, Haryana)

- ii. It shall be the endeavor of the Prison Authorities that all the accused facing trial in a criminal case may, as far as practicable, be kept in one jail till the conclusion of the prosecution evidence. However, in cases where an under-trial is also facing trial in multiple cases/ in different Sessions Divisions, the Nodal Officer shall ensure transportation of the under-trial to the local jail, a day prior to the date of hearing in the Ld. Trial Court. In case, the jail authorities have to take an administrative decision for shifting jail inmates on administrative grounds, this decision has to be taken at the highest level of the Head of Prison Department (Director General of Prisons), only in rare cases, and concerned Ld. Trial Court may be kept informed of the same as well.

(Action by all Nodal Officers, all Superintendents Jail and DG/Prisons)

- iii. In important cases requiring expeditious disposal, the investigating officers are directed to file applications before concerned Ld. Trial Courts requesting for conducting trials on day-to-day basis. The Nodal Officers shall make a list of such cases and put-up a monthly report before the concerned CPs/DCPs/SPs, so that these matters may be administratively taken-up with the concerned District & Sessions Judge by the CPs /DCPs/SPs during monthly/quarterly meeting.

(Action by all Nodal Officers/CPs/DCPs/SPs)

- iv. Video conferencing facility is being utilized in Haryana for production of under-trials before various Ld. Trial Courts. This facility is available in all 19 numbers of jails in Haryana State.

Efforts have to be made by the Police and Prison authorities to fully utilize the video conferencing facility so that the requirement of physically transporting the under-trials is minimized to the extent possible. There is no legal hitch for use of VC for remand purposes and it should be utilize to the maximum for remand proceedings. In trials, video conferencing can be utilized for recording the evidence of witnesses with the consent of the accused. In cases where trial through video conferencing is legally permissible, the VC facilities should be utilized and "Video Conferencing First" approach should be used wherever feasible.

(Action by all CPs/DCPs/SPs, all Superintendents Jail and DG/Prisons)

- v. Efforts be made by the Police and prosecution agencies to ensure that unnecessary adjournments are not sought during trial from the Ld. Trial Courts. The Police have an important role in ensuring the service of summons, the presence of witnesses and accused in the Ld. Trial Courts on trial dates so that trials do not get delayed. Similarly, Public Prosecutor shall avoid seeking adjournments on flimsy grounds and shall keep the Ld. Trial Courts apprised wherever defense counsels seek adjournments for delaying the dispensation of justice in any manner.

(Action by all CPs/DCPs/SPs, Director, Prosecution and all District Attorneys)

- vi. The Public Prosecutor appearing in trials shall ensure that the case is not adjourned due to production of one of the under-trials in some other case at a different place on the same day. All the pending cases of an under-trial shall be accounted for and suitable dates be sought from Ld. Trial Courts to avoid such eventualities of clash of dates in two different Ld. Trial Courts.

(Action by all CPs/DCPs/SPs, Director, Prosecution and all District Attorneys)

- vii. Efforts be made by the Public Prosecutors and by the Investigating Officers that parts of trials of different offences arising out of the same occurrences are clubbed in one Ld. Trial Court, instead of taking place in different Ld. Trial Courts. Wherever such a situation is raised, the concerned Public Prosecutor would file an application before the Ld. Trial Courts praying for transfer of trials in the public interest as well as expeditious dispensation of justice.

(Action by all CPs/DCPs/SPs, Director Prosecution and all District Attorneys)

- viii. The Public Prosecutors shall carefully scrutinize requests for exemptions of witnesses and satisfy themselves of the genuineness of the grounds of exemption being sought by the witness, before forwarding such requests to Ld. Trial Courts. The Nodal Officers shall ensure that exemptions are not sought on frivolous grounds by the concerned Police officer who has been summoned to appear as a witness. The Nodal Officers shall further ensure that the concerned witness is not deputed on law & order duty or some other assignment on the date of hearing. Appearance in Ld. Trial Courts for giving evidence is an important duty of all Police officers.

(Action by all CPs/DCPs/SPs, all Nodal Officers, Director, Prosecution and all District Attorneys)

- ix. At the time of presentation of challan/investigation report under the provisions of Cr.P.C., the concerned Public Prosecutor shall inform the Nodal Officer in writing about the particulars of the accused, the prisons where they are lodged, the list of witnesses and the details of

Case Property

- xv. The Nodal Officers shall ensure that summons for witnesses in trials are served well in advance to ensure the presence of witness on the date fixed, so that the trials can take place expeditiously and the visit of the under trials to the Ld. Court is not wasted.

(Action by all CPs/DCPs/SPs and Nodal Officers)

- xvi. The Nodal officers shall ensure that the relevant case property is made available in the Ld. Trial Court well in time, so that the trials are not adjourned for non-production of case property. They shall evolve a monitoring mechanism with the concerned Police Stations to ensure smooth production of case property before the Ld. Trial Courts. Any Police official, who is found defaulting/tempering in the matter, shall be dealt with departmentally by the concerned DCPs /SPs.

The Public Prosecutor shall inform the Nodal Officer and Incharges of concerned Malkhanas well in advance to ensure the timely production of case property on the date fixed for hearing. The Nodal Officer shall make appropriate arrangements for production of case property, including providing transportation, in case the same is required for transporting the case property in the Ld. Trial Court.

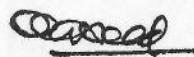
(Action by all CPs/DCPs/SPs, Nodal Officers and all District Attorneys)

- xvii. In cases where the case property has been released on superdari by the Ld. Trial Court, the concerned Public Prosecutor shall file an application before the Ld. Court for issuance of notice well in time to the superdar for the production of case property on the fixed date of hearing.

(Action by all District Attorneys)

- xviii. The District Attorney, being the Member-Secretary of the District Level Monitoring Committee headed by the Ld. District & Sessions Judge, and having the Deputy Commissioner, Deputy Commissioner of Police/ Superintendent of Police, Superintendent Jail, and Chief Judicial Magistrate as members shall ensure that the meetings of the Committee are held regularly to review the compliance of this Advisory and for achieving the object of expeditious trial of criminal cases.

(Action by all District Attorneys)



Dr. S.S. Prasad
Additional Chief Secretary to Govt., Haryana
Jails Department.

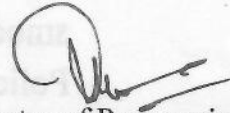
Encl: 1

DIRECTOR OF PROSECUTION, HARYANA, PANCHKULA

Endst No.AP(7)-2019 **8766**

Dated: **17/5/19**

A copy is forwarded to all the DAs/APP for further necessary action with a direction to make strict compliance of this letter as well as of the instruction issued vide letter No. 4941-4962 dated 25.03.2019 in its to spirit, failing which would invite strict disciplinary action.


for Director of Prosecution, Haryana

8/15/19

Dr. S.S. Prasad
Additional Chief Secretary to Govt., Haryana
Jails Department