

COMPENDIUM OF VARIOUS JUDGMENTS OF HON'BLE SUPREME COURT OF INDIA / HON'BLE ALLAHABAD HIGH COURT & SOPs OF NALSA AND UPSLSA FOR THE WELFARE OF THE PRISONERS

In **W.P. (C) No. 406/2013, In Re-Inhuman conditions in 1382 Prisons** the Hon'ble Supreme Court of India have issued several directions for the benefit of the prisoners in which the main are mentioned below:-

1. Under Trial Review Committee is to be established in every district.
2. Under Trial Review Committees shall now consist of District Judge, Superintendent of Police, District Magistrate and Secretary, District Legal Services Authority and Jail Superintendents in the meetings of UTRC.
3. Under Trial Review Committee shall meet regularly.

In the aforesaid case, the Hon'ble Court has been also pleased to stress on the need to appoint adequate number of legal aid lawyers so that necessary steps can be taken with regards to the release of under trial prisoners in accordance with the law including those who have been granted bail but are unable to furnish the bail bond.

In compliance of the above directions, the Under Trial Review Committee have been constituted in all the districts and its Meetings are conducted on regular interval. The Panel Advocates, Legal Aid Defense Counsels and the Jail visiting PLVs visits Jail regularly to meet the UTPs who are unable to furnish the bail and are still in custody for that reason and discuss the case with them and move appropriate applications before appropriate Court for release of such prisoners unless they are required in custody for some other purposes. NALSA has also formulated a SOP and prescribed a format including the 14 eligibility criteria, such prisoners whose matters can be taken up by the UTRC Committee, which is as under:

- i. UTPs eligible under section 436 A of Cr.P.C.
- ii. UTPs released on bail by the court, but have not been able to furnish sureties.
- iii. UTPs accused of compoundable offences.

- iv. UTPs covered under Section 436 Cr.P.C.
- v. UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment.
- vi. Convicts who have undergone their sentence or are entitled to release because of remission granted to them.
- vii. UTPs become eligible to be released on bail u/s 167(2)(a) (i) & (ii) of the Code read with section 36 A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of section 19 or section 24 or section 27 A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days.
- viii. UTPs, who are imprisoned for offences which carry a maximum punishment of 2 years.
- ix. UTPs, who are detained under chapter VIII of the Cr.P.C. i.e. u/s 107, 108, 109 and 151 of Cr.P.C.
- x. UTPs, who are sick or infirm and require specialized medical treatment
- xi. UTPs, Women offenders (S.437 of Cr.P.C.);
- xii. UTPs, who are first time male offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible.
- xiii. UTPs, who are of unsound mind and must be dealt under chapter XXV of the Code.
- xiv. UTPs, who are eligible for release under section 437(6) of the Code, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of sixty days from the first date fixed for taking evidence in the case.

The prisoners, whose cases fall under the aforesaid categories are identified and thereafter considered by the UTRC Committee for their release. In the above context, several directions have been issued repeatedly to the districts by the UPSLSA for the release of the eligible prisoners and to provide them free and competent legal aid to the under trial prisoners on priority basis.

The following steps should be taken:

- 1- Secretary DLSA shall collect the list of Under trial prisoners on daily basis and the Jail Superintendent of District Jails be directed to ensure that, the list which they are sending to DLSA would first include UTPs of who are languishing in jail from the long duration and such prisoners be also included whose bail has been granted by the Court of competent jurisdiction, but due to insufficient surety or lack of surety, they have not been released from jail. In this process, the co-operation and assistance of the Legal Aid Defense Counsels, Jail Visitor lawyers and Jail PLVs can be taken.
- 2- The interaction through video conferencing should be done with the prisoners mentioned in the list provided by the District Jail on a regular basis.
- 3- By the interaction with UTPs through Video Conferencing, Free Legal Aid Counsel should be provided to those, who are not able to appoint private advocate, by the concerned Secretary DLSA.
- 4- The daily progress report from the advocate, provided to the UTPs, should be taken by the concerned Secretary DLSA.
- 5- If, the UTPs have their own private advocate then the meeting has to be taken with those private advocate to check the progress and if the action has not been taken by the advocate then they should be motivated so that they could actively take the action in the case of UTPs. If the private advocate is not participating actively, then legal aid may be provided to that UTP through the LADCS & Panel Advocate.
- 6- During the interaction with UTPs through video conferencing, those UTPs whose bail has been granted by the Hon'ble Court, but due to the lack of the sureties, their release could have not been possible, then information should be collected regarding their relatives and the other persons who can take their surety and they should be motivated for the bail/release of prisoners.

- 7- If the prisoners is asserting that there is no one in his family or in his close relation who can arrange sureties for his release, in that condition the co-ordination has to be established with the Village Pradhan, reputed persons/any other esteemed person of the society and such other person who can take the surety of the prisoners, can be coordinated and communicated through PLVs for their release.
- 8- The separate list should be sent regularly by the Secretary DLSA to the respective courts, then by corresponding with the concerned courts about the case of the above nature of under trial prisoners and thereafter the concerned court should be requested to take action according to the rules.
- 9- The list of the prisoners under consideration of the above nature should be placed before the District Judge by the Secretary, DLSA in the monthly monitoring cell meeting.
- 10- The CJM shall convene a separate meeting in every month with the concerned Magistrates and Secretary, DLSA, so that the case of UTPs can be expeditiously dealt with.

Recently in the case of SLP (Crl.) No. 529/2021 titled Sonadhar Vs State of Chhattisgarh and SMWP (Crl.) No. 4/2021 titled In Re Policy Strategy for grant of Bail. The Hon'ble Supreme Court has issued certain directions for expeditious release of the Under Trial Prisoners/ Convicts from the Jail.

- "1. The Court which grants bail to an under-trial prisoners/ convict would be required to send a soft copy of the bail order by e-mail to the prisoner through the Jail Superintendent on the same day or the next day. The Jail Superintendent would be required to enter the date of grant of bail in the e-prison software (or any other software which is being used by the Prison Department).**
- 2. If the accused is not released within a period of 07 days from the date of grant of bail, it would be the duty of the Superintendent of Jail to inform the Secretary, DLSA who may depute para legal volunteer or jail visiting advocate to interact with the prisoner and assist the prisoner in all ways possible for his release.**

3. **NIC would make attempts to create necessary fields in the e-prison software so that the date of grant of bail and date of release are entered by the Prison Department and in case the prisoner is not released within 07 days, then an automatic email can be sent to the Secretary, DLSA.**
4. **The Secretary, DLSA with a view to find out the economic condition of the accused, may take help of the Probation Officers or the Para Legal Volunteers to prepare a report on the socio-economic conditions of the inmates which may be placed before the concerned Court with a request to relax the condition (s) of bail/surety.**
5. **In case where the under trial or convicts requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.**
6. **If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo moto take up the case and consider whether the conditions of bail require modification/relaxation.**
7. **One of the reasons which delays the release of the accused/ convicts is the insistence upon local surety. It is suggested that in such cases, the Courts may not impose the condition of local surety."**

The DLSAs have been directed for the compliance of the aforesaid directions and the DLSAs are taking the assistance of the PLVs, Panel Lawyers and their LADCS Counsels to interact with the prisoners and assist the prisoners in all possible ways for his/ her release.

**COMPLIANCE OF DIRECTIONS PASSED BY HON'BLE SUPREME COURT
IN SLP (CRL.) No. 5191 of 2021 TITLED SATENDER KUMAR ANTIL Vs.
CBI & OTHERS.**

- Compliance of Sections 41 & 41 A of Cr.P.C. in conformity with the directions issued by this court in terms of the order dated 02-05-2023.
- Steps must be taken to ensure compliance by filing applications on behalf of the under trial prisoners under Section 440 of Cr.P.C.
- The Hon'ble Supreme Court of India in the aforesaid matter vide its order dated 13-02-2024 has directed for the compliance of below mentioned SOP and guidelines for the implementation of the scheme for support to the poor prisoners.

**Guidelines and Standard Operating Procedure for the implementation
of the Scheme for support to poor prisoners**

- i) Funds to the States/UTs will be provided through the Central Nodal Agency (CNA). The National Crime Records Bureau has been designated as the CNA for this scheme.
- ii) States/UTs will draw the requisite amount from the CNA on case-to-case basis and reimburse the same to the concerned competent authority (Court) for providing relief to the prisoner.
- iii) An 'Empowered Committee may be constituted in each District of the State/UT, comprising of i) District Collector (DC)/District Magistrate (DM), ii) Secretary, District Legal Services Authority, iii) Superintendent of Police, iv) Superintendent/ Dy. Superintendent, of the concerned Prison and v) Judge in-charge of the concerned Prison, as nominee of the District Judge.

Note: This Empowered Committee will assess the requirement of financial support in each case for securing bail or for payment of fine, etc. and based on the decision taken, the DC/DM will draw money from the CNA account and take necessary action.

Note: The Committee may appoint a Nodal Officer and take assistance of any civil society representative/social worker District Probation Officer to assist them in processing cases of needy prisoners.

- iv) An Oversight Committee may be constituted at the State Government level, comprising of 1) Principal Secretary (Home/Jail), ii) Secretary (Law Department), iii) Secretary, State Legal Services Authority, iv) DG/IG (Prisons) and v) Registrar General of the High Court.

Note: The composition of the State level 'Empowered Committee' and 'Oversight Committee' suggestive in nature. Prisons/persons detained therein being "State-List" subject, it is proposed that the Committees may be constituted and notified by the concerned State Governments/UT Administrations.

Standard Operating Procedure

Under Trial Prisoners

1. If the under trial prisoner is not released from the jail within a period of 7 days of order of grant of bail, then the jail authority would inform Secretary, District Legal Services Authority (DLSA).
2. Secretary, DLSA would inquire and examine whether the under trial prisoner is not in a position to furnish financial surety for securing bail in terms of the bail conditions.

For this, DLSA may take the assistance of Civil Society representatives, social workers/ NGOs, District Probation officers or revenue officer. This exercise would be completed in a time bound manner within a period of 10 days.

3. Secretary, DLSA will place all such cases before the District Level Empowered Committee every 2-3 weeks.
4. After examination of such cases, if the Empowered Committee recommends that the identified poor prisoner be extended the benefit of financial benefit under "Support to poor prisoners Scheme", then the requisite amount up to Rs. 40,000/- per case for one prisoner, can be

drawn and made available to the Hon'ble Court by way of Fixed Deposit or any other method, which the District Committee feels appropriate.

5. This benefit will not be available to persons who are accused of offences under Prevention of Corruption Act, Prevention of Money Laundering Act, NDPS or Unlawful Activities Prevention Act or any other Act or provisions, as may be specified later.
6. If the prisoner is acquitted/convicted, then appropriate orders may be passed by the trial Court so that the money comes back to the Government's account as this is only for the purposes of securing bail unless the accused is entitled to the benefit of bail U/s. 389 (3) Cr.P.C. in which event the amount can be utilized for bail by Trial Court to enable the accused to approach the Appellate Court and also if the Appellate Court grants bail U/s. 389 (1) of Cr.P.C.
7. If the bail amount is higher than Rs. 40,000/-. Secretary, DLSA may exercise discretion to pay such amount and make a recommendation to the Empowered Committee, Secretary, DLSA may also engage with legal aid advocate with a plea to have the surety amount reduced. For any amount over and above Rs. 40,000/-, the proposal may be approved by the State level Oversight Committee.

Convicted Prisoners:

1. If a convicted person is unable to get released from the jail on account of non-payment of fine amount, the Superintendent of the Jail would immediately inform Secretary, DLSA (Time bound manner: 7 days).
2. Secretary, DLSA would enquire into the financial condition of the prisoner with the help of District Social Worker, NGOs, District Probation Officer, Revenue Officer who would be mandated to cooperate with the Secretary, DLSA. (Time bound manner: 7 days).
3. The Empowered Committee will sanction the release of the fine amount up to Rs. 25,000/- to be deposited in the Court for securing the release of the prisoner. For any amount over and above Rs. 25,000/-, the proposal may be approved by the State level Oversight Committee."

DIRECTIONS IN ANIL GAUR @ SONU @ SONU TOMAR VS. STATE OF U.P., ORDER DATED 12.09.2022

In Para 72 , Hon'ble Court has directed that **'The jail authorities as well as concerned State authorities are directed to cooperate with the State Legal Services Authority and the District Legal Services Authority and ensure effective implementation of the schemes framed by the State Legal Services Authority.'**

Further, in Para 74, Hon'ble Court has directed for following suggestions for effective implementation for the said scheme may be considered :

- A. To create a comprehensive programme with SOPs for legal aid to prisoners accused of various crimes including heinous offences who have not filed bail applications before the High Court within a period of one year after rejection of bail by the trial court. The said period of one year is only suggestive. The said period has to be determined by the State Legal Services Authority.
- B. To create a comprehensive programme with SOPs for giving legal aid to prisoners accused of committing various crimes including heinous offences who have not been able to move bail applications before the trial court six months after imprisonment. The said period of six months is only suggestive. The said period has to be determined by the State Legal Services Authority.
- C. The State Legal Services Authority may suggest to the High Court to decide an appropriate procedure for filing of bail applications on behalf of the under trial prisoners, and particularly those who do not have any pairokars.
- D. Legal aid counsels may be given appropriate directions to take measures for listing and early hearing of bail applications.
- E. Filing of subsequent bail applications in case the first bail application is rejected by the High Court.

- F. The jail authorities and District Legal Services Authority shall maintain the list of all prisoners which shall contain these details. Date of imprisonment, date of filing of bail application before the competent court, date of grant/rejection of bail application by the trial court, the date of grant/rejection of bail application by the High Court, date of conviction and latest status of pending bail applications. Efforts should be made to make updated order sheets of courts, likely dates of listing available online in jails.
- G. Regular intimation of the status of the case to the prisoners. Take regular feedback from prisoners including those who have been given legal aid.

Compliance by the District Legal Services Authority

- U.P. State Legal Service Authority has prepared a Standard Operating Procedure (**SOP**) to provide legal aid to the Under Trial Prisoners, accused of various crimes who have not filed bail applications before the Trial Court/High Court in the timely manner because of penury and inability to access legal aid. The Hon'ble Executive Chairman, UPSLSA has approved the aforesaid SOPs on 21.02.2023 and the same has been circulated vide letter no. 665/SLSA-11/2023 dated 01.03.2023 to all the District Judges/Chairperson, DLSAs & the Secretaries, High Court Legal Services Committee, Allahabad and High Court Legal Services Sub-Committee, Lucknow to adhere the procedure mentioned in it, in case of UTPs who have not filed bail applications before the competent Courts.
- District Legal Services Authority and the Jail Authorities have been directed to maintain the list of all prisoners which shall contain these details i.e. Date of imprisonment, date of filing of bail application before the competent court, date of grant/rejection of bail application by the trial court, the date of grant/rejection of bail application by the High Court, date of conviction and latest status of pending bail applications.

- DLSA Secretary has been directed to regularly visit and organize various awareness camps in the jails so that the prisoners may be awarded about their legal rights within the boundaries of prison and necessary requirement of prisoners can be fulfilled.
- Secretary HCLSC have also been directed to ensure that the bail applications are properly filed and heard expeditiously as per the SOP of UPSLSA. Filing of subsequent bail applications in case the first bail application is rejected by the High Court.
- Para Legal Volunteers have been deputed in Legal Aid Clinics established in jail for the purpose of spreading awareness regarding rights of prisoners and identification of such prisoners who needs legal aid and assistance for filing any requisite application.
- PLVs have also been directed to maintain the records of prisoners in jail.
- Legal Aid Counsels i.e. Panel Lawyers and the Legal Aid Defense Counsels are being directed by the DLSA Secretaries to identify the prisoners, who needs legal aid and assistance for filing any requisite application and to take measures for listing and early hearings of bail applications.
- The Secretaries, District Legal Services Authorities to regularly visit and organize various awareness camps in the jail for the purpose of spreading awareness regarding rights of prisoners and identification of such prisoners who need legal and assistance for filing any requisite application. Member Secretary have also directed to maintain the list of all prisoners which shall contain the details like:- Date of imprisonment, date of filing of bail application before the competent court, date of grant/rejection of bail application by the trial court, the date of grant/rejection of bail application by the High Court, date of conviction and latest status of pending bail applications.

IN THE MATTER OF PRE-MATURE RELEASE
RASHIDUL JAFAR @ CHHOTA VS. STATE OF U.P.

Hon'ble the Supreme Court of India in W.P (Crl.) No. 336 of 2019 Rashidul Jafar @ Chhota Vs. State of U.P. while dealing with the matter of pre-mature release of the prisoners has issued certain directions on 06-09-2022, to the State Govt. , Prison Authorities and UPSLSA.

The main portion of the above said order is quoted herein:-

“ the application for premature release shall be considered expeditiously. Those cases which have already been processed and in respect of which reports have been submitted shall be concluded and final decisions intimated to the convict no later than within a period of one month from the date of this order. Cases of eligible life convicts who are (i) above the age of seventy years; or (ii) suffering from terminal ailments shall be taken up on priority and would be disposed of within a period of two months. The Uttar Pradesh State Legal Services Authority shall, within a period of two weeks, lay down the priorities according to which all other pending cases shall be disposed of all other cases shall, in any event, be disposed of within a period of four months from the date of this order.....”

Hon'ble the Supreme Court of India has also directed that :

- 1- All cases for premature release of convicts undergoing imprisonment for life in the present batch of cases shall be considered in terms of the policy of the State Government, dated 01-08-2018, as amended subject to the observation which is contained herein. The restriction that a life convict is not eligible for premature release until attaining the age of sixty years, which was introduced by the policy of 28-07-2021, stands deleted by the amendment dated 27-05-2022. Hence, no case for premature release shall be rejected on that ground;

- 2- In the event that any convict is entitled to more liberal benefits by any of the amendments which have been brought about subsequent to the policy

dated 01-08-2018, the case for the grant of premature release would be considered by granting benefit in terms of more liberal amended para/clause of the policies. All decisions of premature release of convicts, including those, beyond the present batch of cases would be entitled to such a beneficial reading of the policy;

- 3- In terms of para 4 of the policy dated 01-08-2018, no application is required to be submitted by a convict undergoing life imprisonment for premature release. Further, through amendment dated 28-07-2021, para-3 (i), which included convicts undergoing life imprisonment who have not filed application for pre-mature release in the prohibited category, has specifically been deleted. Accordingly, all cases of convicts undergoing life sentence in the State of Uttar Pradesh who are eligible for being considered for premature release in terms of policy, including but not confined to the five hundred and twelve prisoners involved in the present batch of cases, shall be considered in terms of the procedure for premature release stipulated in the policy;
- 4- The District Legal Services Authorities in the State of Uttar Pradesh shall take necessary steps in coordination with the jail authorities to ensure that all eligible cases of prisoners who would be entitled to premature release in terms of the applicable policies, as noticed above, would be duly considered and no prisoner, who is otherwise eligible for being considered, shall be excluded from consideration.
- 5- These steps to be taken by the DLSAs would, include but not be limited to. Secretaries of DLSAs seeking status report on all prisoners undergoing life imprisonment in the prisons falling under their jurisdiction in terms of the format, covering the details mentioned in Para 13 of this judgment and ensuring its submission by relevant authorities within eight weeks of this order as well as on an annual basis. Further, DLSAs would utilize this status report to monitor and engage with respective authorities to ensure the implementation of our directions to ensure premature release in terms of

applicable policies in all eligible cases of convicts undergoing life sentence on a continuous basis;

- 6- The applications for premature release shall be considered expeditiously. Those cases which have already been processed and in respect of which reports have been submitted shall be concluded and final decisions intimated to the convict no later than within a period of one month from the date of this order. Cases of eligible life convicts who are (i) above the age of seventy years; or (ii) suffering from terminal ailments shall be taken up on priority and would be disposal of within a period of two months. The Uttar Pradesh State Legal Services Authority shall, within a period of two weeks, lay down the priorities according to which all other pending cases shall be disposed of. All other cases shall, in any event, be disposed of within a period of our months from the date of this order; and
- 7- Where any convict undergoing life imprisonment has already been released on bail by the orders of this Court, the order granting interim bail shall continue to remain in operation until the disposal of the application for premature release.

In the light of the above judgment of the Hon'ble Supreme Court of India, the UPSLSA has prepared a **SOP** containing guidelines for the DLSAs to deal with the matter of pre-mature release of the prisoners within the time limit prescribed by the Hon'ble Supreme Court of India. The SOP has been circulated to all the DLSAs for the compliance in letter and spirit.

In the Matter of Filing Jail Appeals

The UPSLSA has prepared a **SOP** to streamline the apathetic state of affairs regarding non-filing or inordinate delay in filing of jail appeals by or on behalf of detained convicts primarily due to lack of means, legal acknowledge or poverty etc. The SOP has been circulated vide letter no. 384/SLSA-LA- 166/2019(AK/Ri), dated 17-02-2021 to all the districts and the jail superintendents for the convenient filing of the jail appeals.



U.P. STATE LEGAL SERVICES AUTHORITY

(Constituted under the Legal Services Authorities Act, 1987)

To

All the Chairperson/ District Judges,
District Legal Services Authorities,
Uttar Pradesh.

No: 324 /SLSA-LA-166/2019(AK/Ri)

Dated: Feb. 17, 2021.

Sub: In the Matter of Filing Jail Appeals.

Madam/ Sir,

I have been directed to bring to your kind notice, the pathetic state of affairs regarding non filing or inordinate delay in filing Jail Appeal by or on behalf of detained convicts primarily due to lack of means, legal knowledge or poverty etc.

I have been directed to request you to ensure and follow the under mentioned process in respect to filing of jail appeal within stipulated time forthwith and mandatorily:-

- 1- The Secretary, District Legal Services Authority shall visit the district jail every 15 days henceforth and prepare / get prepared a list of detained convicted persons, who have been unable to file appeals due to one or other reasons.
- 2- The details of the said cases shall be maintained at the level of District Legal Services Authority (hereinafter referred as DLSA) and information of the said inspection/visit along with this detail of convicts shall be mandatorily sent to the High Court Legal Services Committee, Allahabad or It's Sub-Committee at Lucknow (High Court Legal Services Committees) through Chairman, DLSA. The copy of said information shall also be sent to concerned CJM/ACJM, deputed to make Jail Inspection every month as per General Rule Criminal G.L. No. 38/ADMN(B), dated 09-12-1968 (Annexure-1).
- 3- The Chairman, DLSA is requested to reflect upon the said report of the Secretary, DLSA and the then existing status of the pendency of Jail Appeals in his quarterly inspection of the District Jail as District Judge with the District Magistrate and District Superintendent of Police in compliance of the provision of General Rule Criminal C.L. No. 82/VIII-9/Inspection Section, dated 12-09-1994 (Annexure no. 2). The copy of the said report be also sent to State Legal Services Authority.
- 4- The Secretary, DLSA is further directed to collect data of judgments of conviction, on merit, by criminal courts of concerned district and collate in co-ordination with the Jail Superintendent so as to monitor the status of

- Jail Appeals filed on behalf of detained convicts. In the eventuality of delay occurring in filing Jail Appeals because of inability to file the same, prompt and effective legal assistance shall be provided to the convicts.
- 5- The Chairman and the Secretary, DLSA are also directed to ensure that the jail visiting Panel Lawyers empanelled with DLSA continuously monitor the implementation of the aforesaid directions. The compliance of the duties statutorily assigned to the Jail Superintendent shall also be ensured and delinquency, if any, be reported /reflected in the aforesaid reports.
 - 6- It has also come to the notice that Jail Appeals as prepared by the advocates on panel at the district level are not generally accompanied with the required affidavit of the convict and the format of such appeals is not always proper. Further, more than often, the Hon'ble Court has to appoint an amicus curie in such Jail Appeals. The process takes a lot of time. The process devised is as under to plug the loop holes and ensure early filing and hearing of Jail Appeals.
 - 6.1. The Jail Superintendent under his statutory duty shall send the proposal/letter for Jail Appeal with requisite documents to the High Court Legal Services Committee, preferably by e-mail. The High Court Legal Services Committee shall in its discretion have a separate e-mail address for Jail Appeals or devise a mode to monitor Jail Appeals received on the existing e-mail.
 - 6.2. The High Court Legal Services Committee shall designate an advocate empanelled with it for preparing the appeal/affidavit and bail applications etc on required formats with promptitude and ensure receipt of papers by advocate through e-mail or otherwise. The Secretary of the said committee shall ensure the early preparation of said Jail Appeal in word format and transmit the so prepared Jail Appeal preferably by e-mail or otherwise, to the concerned Jail Superintendent who shall get the appeal, affidavit and other documents signed by the accused/detained convict and shall also get the affidavit verified in the jail itself. The State Legal Services Authority in co-ordination with the District Legal Services Authority shall ensure that the Oath Commissioner is made available to the Jail Superintendent for swearing the said affidavit in Jail itself through a institutionalized mechanism.
 - 6.3. The Jail Superintendent shall sent the completed appeal to the High Court Legal Services Committee. The Secretary of the said Committee to ensure the filing of said Jail Appeal through designated empanelled lawyer.
 - 7- The Secretary, DLSA is to monitor and ensure that the aforesaid requisites for filing Jail Appeal is compiled within stipulated time at the earliest by the Jail Authorities.

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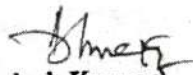
- 8- A copy of the final letter to be sent by the Jail Superintendent to the High Court Legal Services Committees for filing Jail Appeals be also sent to Secretary, DLSA mandatorily for updating the records of pending Jail Appeal/non filing of appeal by detained convicts.
- 9- The State Legal Services Authority shall monitor the factual situation of non filing of appeals by detained convicts.
- 10- It is advised that in case of non availability of copy of judgment or other requisite documents for filing Jail Appeal with the convict or jail authorities for any reason despite the copy of judgment having been given to convict under the provision of 363 Cr.P.C. (Annexure No.3). The Secretary, DLSA shall obtain a copy of aforesaid documents under the provision of Chapter 15, Rule 143(i) (c) and (d) of General Rules Criminal (Annexure No.4) as DLSA, an statutory authority, (Legal Services Authorities Act, 1987 is enacted by the Parliament) is an instrumentality of the State. Hence, a 'State' under article 12 of the Constitution. Therefore, Secretary, DLSA shall as such ensure the fulfillment of the documentary requirement of filing the Jail Appeal within stipulated time.

You are, therefore, requested to comply the aforesaid directions in letter and spirit forthwith. The report of the aforesaid first visit of this month i.e. February, 2021 be sent to the High Court Legal Services Committee, Allahabad or it's Sub-Committee at Lucknow as the case may be and to this office by 27th February, 2021 positively.

With Regards.


Yours faithfully,

Encl: As above


(Ashok Kumar)
Member Secretary

Copy to:

- 1- The Secretary, High Court Legal Services Committee, High Court of Judicature at Allahabad for information and necessary action.
- 2- Secretary, High Court Legal Services Sub-Committee, High Court of Judicature at Allahabad, Lucknow Bench, Lucknow for information and necessary action.
- 3- The D.G. (Prison), Uttar Pradesh.
- 4- All the Jail Superintendents. Uttar Pradesh.


(Ashok Kumar)
Member Secretary

सिद्धदोष बंदियों की समयपूर्व रिहाई हेतु

मानक संचालन प्रक्रिया

- माननीय सर्वोच्च न्यायालय द्वारा रिट याचिका(किम0) संख्या 336/19, रशीदुल जफर उर्फ छोटा बनाम उत्तर प्रदेश राज्य व अन्य में पारित दिशा निर्देशों के प्रकाश में उत्तर प्रदेश के समस्त कारागारों में निरूद्ध सिद्धदोष बंदियों की समयपूर्व रिहाई हेतु मानक संचालन प्रक्रिया निर्मित की जा रही है।
- माननीय सर्वोच्च न्यायालय द्वारा रिट याचिका(किम0) संख्या 336/19, रशीदुल जफर उर्फ छोटा बनाम उत्तर प्रदेश राज्य व अन्य में पारित निर्णय दिनांकित 06.09.2022 में निर्देशित किया गया है कि उत्तर प्रदेश की जेलों में सिद्धदोष व आजीवन कारावास से दण्डित बंदी, जो कि समय पूर्व रिहाई हेतु पात्र हैं, वह भी अभी तक कारागार में निरूद्ध हैं तथा उनके मध्य न तो सम्यक जागरूकता है और न ही उन्हें यह तथ्य ज्ञात है कि वह समय पूर्व रिहाई हेतु पात्र व्यक्ति हैं।
- इस संबंध में यह तथ्य भी प्रकाश में आया है कि यदि कुछ बंदियों को समय पूर्व रिहाई की नीति का लाभ प्रदान करके उन्हें एक निश्चित अवधि के कारावास को व्यतीत करने के पश्चात् नियमानुसार रिहा कर दिया जाता है तो इसका कारागार प्रशासन पर अत्यन्त सकारात्मक असर पड़ता है तथा कारागार में अनुशासन भी स्थापित होता है, क्योंकि अन्य बंदी, जो समय पूर्व रिहाई की श्रेणी में हैं अथवा पात्रता की श्रेणी में आने की कगार पर हैं, वह कारागार में अत्यन्त अनुशासित जीवन व्यतीत करते हैं ताकि उनकी बारी आने पर उन्हें भी समय पूर्व रिहाई का लाभ प्राप्त हो सके।
- माननीय सर्वोच्च न्यायालय द्वारा इस बिन्दु पर भी बल दिया गया है कि समय पूर्व रिहाई के प्रावधानों के संबंध में बंदियों के मध्य जागरूकता नहीं है और बंदियों को उक्त प्रावधानों तथा अपनी पात्रता के विषय में ज्ञान नहीं है। अतः इस संबंध में कमबद्ध तरीके से अभियान चलाकर समस्त कारागारों में समय पूर्व रिहाई के प्रावधानों का व्यापक प्रचार-प्रसार किया जाये।
- समय पूर्व रिहाई के संबंध में जागरूकता हेतु कारागारों में पोस्टरस लगवाये जायें तथा वॉल पेंटिंग्स करवायी जायें।

- सचिव, जिला विधिक सेवा प्राधिकरणों द्वारा कारागार परिसरों में विशेष जागरूकता शिविर आयोजित किये जायें जिनमें समय पूर्व रिहाई के प्रावधानों से बंदियों को अवगत कराया जाये।
- समस्त उत्तर प्रदेश में जिला विधिक सेवा प्राधिकरण, जेल प्राधिकारियों के साथ मिलकर यह सुनिश्चित कर लेंगे कि समय पूर्व रिहाई हेतु पात्र कोई भी बंदी अवशेष न बचे।
- सचिव, जिला विधिक सेवा प्राधिकरण अपने जिले के कारागारों से समस्त आजीवन कारावास की सजा से दण्डित बंदियों की अवस्थिति के संबंध में आख्या आहूत करेंगे तथा यह सुनिश्चित कर लेंगे कि यदि वह बंदी किसी भी नीति के अन्तर्गत पात्रता की श्रेणी में आते हैं तो उनकी समय पूर्व रिहाई सुनिश्चित हो सके। सचिव, जिला विधिक सेवा प्राधिकरण यह कार्य 2 सप्ताह के अन्दर पूर्ण कर लेंगे।
- यह भी सुनिश्चित किया जाये कि समस्त लम्बित प्रार्थना पत्रों को एक माह के अन्दर निस्तारित कर लिया जाये।
- यह भी सुनिश्चित कर लिया जाये कि ऐसे समस्त आजीवन कारावास से दण्डित बंदी, जिनकी आयु 70 वर्ष से अधिक है अथवा गंभीर बीमारी से ग्रस्त हैं, उनकी समय पूर्व रिहाई हेतु प्रस्तुत प्रार्थना पत्रों को 02 माह के अन्दर निस्तारित कर दिया जाये।
- समय पूर्व रिहाई के अन्य समस्त प्रकरणों को 02 माह के अन्दर निस्तारित करना है।
- अधिकांश आजीवन कारावास से दण्डित बंदी, केन्द्रीय कारागारों में निरूद्ध होते हैं, अतः केन्द्रीय कारागारों में विशेष जागरूकता कार्यक्रमों का आयोजन किया जाये तथा उनका सदस्य सचिव, उ0प्र0राज्य विधिक सेवा प्राधिकरण द्वारा स्वयं निरीक्षण किया जाये।
- केन्द्रीय कारागारों में विभिन्न जनपदों के आजीवन कारावास से दण्डित बंदी निरूद्ध होते हैं, अतः ऐसे बंदियों के समय पूर्व रिहाई के प्रार्थना पत्र, बंदी के जिले के प्रशासन के पास संस्तुति हेतु प्रेषित होते हैं, अतः सचिव, जिला विधिक सेवा प्राधिकरण बंदी के जनपद के जिला प्राधिकरण एवं जिला प्रोबेशन अधिकारी व जिला प्रशासन से सामन्जस्य स्थापित करके यह सुनिश्चित करेंगे कि ऐसे

बंदियों के प्रार्थना पत्रों पर उनके जिले के स्थानीय प्रशासन द्वारा ससमय कार्यवाही की जाये।

- उत्तर प्रदेश के समस्त केन्द्रीय कारागारों के अधीक्षकों के साथ सदस्य सचिव, राज्य विधिक सेव प्राधिकरण के द्वारा वीडियो कान्फेन्सिंग के माध्यम से तथा भौतिक रूप से भी जा कर के कारागार अधीक्षकों को व्यक्तिगत रूप से यह निर्देशित किया जायेगा कि वह समस्त आजीवन कारावास से दण्डित बंदियों को, जो किसी भी श्रेणी के अन्तर्गत समय पूर्व रिहाई हेतु पात्र हैं, की रिहाई सुनिश्चित करें।
- माननीय कार्यपालक अध्यक्ष, उ0प्र0 राज्य विधिक सेवा प्राधिकरण द्वारा समय-समय पर अपर मुख्य सचिव गृह, अपर मुख्य सचिव कारागार, महानिदेशक, कारागार प्रशासन, जनपद न्यायाधीश, जिलाधिकारी, पुलिस अधीक्षक/ वरिष्ठ पुलिस अधीक्षक एवं समस्त जेल अधीक्षकों के साथ जूम मीटिंग करके सिद्धदोष बंदियों की समय पूर्व रिहाई के प्रकरणों की समीक्षा की जायेगी।
- ✓ राज्य विधिक सेवा प्राधिकरण प्राथमिकता के आधार पर निम्नलिखित कार्यवाही सुनिश्चित करेगा:-
 1. सर्वप्रथम यह सुनिश्चित किया जायेगा कि आजीवन कारावास से दण्डित ऐसे पात्र बंदी, जिनका समय पूर्व रिहाई हेतु प्रार्थना पत्र किसी भी स्तर पर लम्बित हैं, का यथाशीघ्र तत्काल निस्तारण हो।
 2. इसके पश्चात् यह सुनिश्चित किया जायेगा कि 70 वर्ष से अधिक आयु के बंदियों तथा गंभीर बीमारियों से ग्रसित आजीवन कारावास से दण्डित सिद्ध दोष बंदियों की समय पूर्व रिहाई सुनिश्चित हो सके।
 3. तत्पश्चात् प्रत्येक केन्द्रीय कारागार एवं जिला कारागारों में अभियान चलाकर प्रत्येक आजीवन कारावास से दण्डित व्यक्ति का विवरण अंकित किया जायेगा तथा यह समीक्षा की जायेगी कि कौन सा बंदी किस श्रेणी के अन्तर्गत, समय पूर्व रिहाई हेतु, पात्र है।
 4. जो भी बंदी, जिस किसी भी श्रेणी के अन्तर्गत, समय पूर्व रिहाई हेतु पात्रता की श्रेणी में आता है, उसके प्रकरण में तत्काल कार्यवाही की जायेगी।
 5. यदि, प्रार्थी का प्रकरण वर्ष, 2018 में निर्मित मानक नीति (यथासंशोधित 28.07.2021 तथा 27.05.2022) के अन्तर्गत है, तो समय पूर्व रिहाई हेतु किसी

प्रार्थना पत्र की आवश्यकता नहीं होगी और प्रार्थी के प्रकरण को जेल प्राधिकारियों द्वारा स्वयं संज्ञान में लेकर कार्यवाही प्रारम्भ कर दी जायेगी।

6. यदि प्रार्थी का प्रकरण प्रोबेशन, नॉमिनल रोल अथवा दया याचिका के अन्तर्गत आता है, तो उस स्थिति में प्रार्थी अथवा उसके परिवार से प्रार्थना पत्र लेकर तत्काल कार्यवाही प्रारम्भ कर दी जायेगी।
 7. जिला विधिक सेवा प्राधिकरण एवं जेल प्राधिकारी आपसी सहयोग एवं सामन्जस्य से जेल पी0एल0वी0, पैनल लायर्स एवं आवश्यकतानुरूप अन्य मानव संसाधन की सहायता से उपरोक्त कार्य एक माह के अन्दर समाप्त कर लेंगे।
 8. तत्पश्चात् यह सुनिश्चित कर लिया जायेगा कि समस्त आख्याओं सहित 15 दिन के अन्दर पात्र बंदियों का प्रकरण शासन को संदर्भित हो जाये।
 9. शासन स्तर पर सचिव, राज्य विधिक सेवा प्राधिकरण, अपर मुख्य सचिव गृह एवं अपर मुख्य सचिव कारागार के साथ बैठक करके यह सुनिश्चित करेंगे कि सिद्धदोष बंदियों के समय पूर्व रिहाई के प्रकरण यथा संभव प्राथमिकता के आधार पर शीघ्रातिशीघ्र निस्तारित किये जायें।
 10. सदस्य सचिव, राज्य विधिक सेवा प्राधिकरण, महामहिम राज्यपाल के विधिक सलाहकार से सामन्जस्य स्थापित करके यह सुनिश्चित करेंगे कि दया याचिका के मामलों में महामहिम के स्तर पर शीघ्रातिशीघ्र निर्णय हो सके।
 11. जिला विधिक सेवा प्राधिकरणों द्वारा समस्त आजीवन कारावास से दण्डित बंदियों का विवरण संलग्न प्रारूप पर अंकित किया जायेगा।
- कारागारों में सिद्धदोष बंदियों की समय पूर्व रिहाई हेतु चार प्रक्रियायें प्रचलन में हैं:-
 1. प्रोबेशन पर सिद्धदोष बंदियों की समय पूर्व रिहाई फार्म ए पर :-

प्रोबेशन पर सिद्धदोष बंदियों की समय पूर्व रिहाई की इस प्रक्रिया में सिद्धदोष बंदी द्वारा कारागार में कम से कम 14 साल के कारावास की अवधि व्यतीत किया जाना आवश्यक होता है। इस प्रक्रिया में समय पूर्व रिहाई हेतु बंदी का प्रार्थना पत्र जेल प्राधिकारियों द्वारा जिला प्रोबेशन अधिकारी के माध्यम से प्रेषित किया जाता है। इन प्रार्थना पत्रों पर पुलिस अधीक्षक/वरिष्ठ पुलिस अधीक्षक की आख्या अंकित करके उन्हें जिलाधिकारी द्वारा कारागार मुख्यालय को प्रेषित किया जाता है। कारागार मुख्यालय पर गठित

समिति की संस्तुति के पश्चात् प्रार्थना पत्र, शासन को प्रेषित कर दिये जाते हैं, जिन पर शासन को बंदी की समयपूर्व रिहाई के लिये निर्णय लेने होता है।

2. सिद्धदोष बंदियों की नॉमिनल रोल पर समय पूर्व रिहाई :-

सिद्धदोष बंदियों की समय पूर्व रिहाई की इस प्रक्रिया में सिद्धदोष बंदी द्वारा कारागार में कम से कम 14 साल के कारावास की अवधि व्यतीत किया जाना आवश्यक होता है। इस प्रक्रिया में नॉमिनल रोल के तहत बंदी की समयपूर्व रिहाई हेतु उसका प्रार्थना पत्र जेल प्राधिकारियों द्वारा जेल मुख्यालय को प्रेषित किया जाता है जिस पर पुलिस अधीक्षक की आख्या एवं संबंधित न्यायालय का अभिमत व जिलाधिकारी की संस्तुति भी अंकित होती है। कारागार मुख्यालय द्वारा नॉमिनल रोल पर समयपूर्व रिहाई हेतु बंदी के प्रार्थना पत्र अपनी संस्तुति सहित शासन को प्रेषित किया जाता है। बंदी की समय पूर्व रिहाई हेतु निर्णय शासन स्तर पर लिया जाता है।

3. मानक नीति, 2018 के अन्तर्गत सिद्धदोष बंदियों की समय पूर्व रिहाई :-

सिद्धदोष बंदियों की समय पूर्व रिहाई हेतु शासन द्वारा वर्ष 2018 में निर्मित मानक नीति जिसे कि वर्ष 2021 एवं 2022 में संशोधित किया गया है, के अंतर्गत सिद्धदोष बंदियों की समय पूर्व रिहाई हेतु किसी प्रार्थना पत्र की आवश्यकता नहीं होती है, किन्तु बंदी द्वारा कम से कम 16 वर्ष के कारावास की अवधि व्यतीत किया जाना आवश्यक होता है। इस नीति के अन्तर्गत जेल प्राधिकारियों द्वारा स्वयं अपनी तरफ से पात्र व्यक्तियों की सूची क्षेत्रीय उप महानिदेशक कारागार को प्रेषित की जाती है, जो अपनी संस्तुति के साथ प्रकरण, शासन को प्रेषित करते हैं, जिस पर शासन द्वारा निर्णय लिया जाता है।

4. दया याचिका के आधार पर बंदियों की समय पूर्व रिहाई :-

दया याचिका का प्रार्थना पत्र महामहिम राज्यपाल को बंदी अथवा उसके परिजनों द्वारा प्रेषित किया जा सकता है। संविधान के अनुच्छेद 161 के अन्तर्गत दया याचिका पर बंदी की समय पूर्व रिहाई महामहिम राज्यपाल के विवेकाधिकार पर निर्भर है। इस हेतु अपना विवेकाधिकार प्रयोग करने के लिये महामहिम राज्यपाल द्वारा जेल, प्रशासन अथवा स्थानीय प्रशासन से बंदी के बावत आख्या प्राप्त की जाती है।

- कारागार के भीतर जितने भी सिद्धदोष बंदी हैं, उन सबकी सूची लेकर उनमें से जितने भी पात्र बंदी हैं, उनसे समय पूर्व रिहाई हेतु प्रार्थना पत्र प्राप्त किये जायें। इस कार्य हेतु जेल पी0एल0वी0, जेल विजिटिंग अधिवक्ताओं एवं अन्य पैनल अधिवक्ताओं की सेवार्यें प्राप्त की जायें।
- समय पूर्व रिहाई हेतु प्राप्त प्रार्थना पत्रों को जेल अधिकारियों द्वारा जिलाधिकारी / जिला प्रशासन को इस आशय से प्रेषित किया जाये कि इन प्रार्थना पत्रों को वह अपनी संस्तुति के साथ शासन को प्रेषित करें।
- सचिव, जिला विधिक सेवा प्राधिकरण यह पर्यवेक्षण करें कि कौन सा प्रार्थना पत्र किस स्तर पर लम्बित है तथा मॉनीटरिंग कमेटी की मीटिंग के माध्यम से वह जिलाधिकारियों को माननीय सर्वोच्च न्यायालय द्वारा पारित दिशा-निर्देशों से अवगत करायें तथा उनको यह निर्देशित करें कि वह सर्वोच्च न्यायालय के आदेश के प्रकाश में समय पूर्व रिहाई हेतु पात्र बंदियों के जो भी प्रार्थना पत्र प्राप्त हुये हैं उन्हें नियमानुसार सकारात्मक आख्या सहित शासन को प्रेषित करें।
- इस प्रकार प्राप्त प्रार्थना पत्रों तथा उन प्रार्थना पत्रों के जिलाधिकारी कार्यालय में लम्बित होने की स्थिति में साप्ताहिक समीक्षा, प्रत्येक जिला विधिक सेवा प्राधिकरण, राज्य विधिक सेवा प्राधिकरण को प्रेषित करना सुनिश्चित करें।
- प्रत्येक सप्ताह जिलाधिकारी द्वारा जो भी प्रार्थना पत्र शासन स्तर पर प्रेषित किये जा रहे हैं उन प्रार्थना पत्रों के विवरण से राज्य प्राधिकरण को अवगत कराया जाये।
- जिला विधिक सेवा प्राधिकरण यह सुनिश्चित कर लें कि जो प्रार्थना पत्र शासन स्तर पर प्रेषित किये जा रहे हैं, उनका विवरण राज्य प्राधिकरण को अवश्य प्रेषित किया जाये।
- शासन स्तर पर सदस्य सचिव, राज्य विधिक सेवा प्राधिकरण द्वारा गृह विभाग के अपर मुख्य सचिव अथवा मुख्य सचिव से बैठक कर समय पूर्व रिहाई हेतु पात्र व्यक्तियों के प्रार्थना पत्रों के शीघ्र निस्तारण हेतु पैरवी की जाये।
- सदस्य सचिव, राज्य विधिक सेवा प्राधिकरण द्वारा विधिक सलाहकार, माननीय राज्यपाल से वार्ता करके बैठक आयोजित की जाये ताकि समय पूर्व रिहाई हेतु पात्र व्यक्तियों के प्रार्थना पत्रों के शीघ्र निस्तारण हेतु कार्यवाही की जा सके। बंदियों की समय पूर्व रिहाई हेतु अंतिम रूप से निर्णय माननीय राज्यपाल महोदय/महोदया द्वारा ही लिया जाता है।


- सिद्धदोष बंदियों की समय पूर्व रिहाई हेतु दिनांक 01.08.2018 को नीति निर्मित की गयी, जिसमें 28 जुलाई 2021 तथा 27 मई, 2022 को संशोधन किये गये। उक्त संशोधनों के पश्चात् समस्त आजीवन कारावास से दण्डित सिद्धदोष बंदी समय पूर्व रिहाई हेतु आवेदन कर सकते हैं तथा यदि वह उक्त नीति के अन्तर्गत पात्र व्यक्ति हैं तो उन्हें समय पूर्व रिहाई प्रदान करने हेतु नियमानुसार कार्यवाही सुनिश्चित की जाये।
- जिला विधिक सेवा प्राधिकरण, जेल प्राधिकारियों के साथ मिलकर यह सुनिश्चित कर लें कि सिद्धदोष बंदियों की समय पूर्व रिहाई हेतु निर्मित संशोधित नीति के अन्तर्गत कोई भी पात्र बंदी कारागार में निरुद्ध न रह जाये।
- वर्तमान नीति संख्या 52/2022/1240/22-2-2022-07 जी/2018, दिनांकित 27.05.2022 के अनुसार अब प्रत्येक वर्ष गणतन्त्र दिवस (26 जनवरी), महिला दिवस(08 मार्च), स्वास्थ्य दिवस(07 अप्रैल), मजदूर दिवस(01 मई), विश्व योग दिवस(21 जून), स्वतंत्रता दिवस (15 अगस्त), शिक्षक दिवस(05 सितम्बर), गाँधी जयन्ती (02 अक्टूबर), अन्तर्राष्ट्रीय सहिष्णुता दिवस(16 नवम्बर) एवं अन्तर्राष्ट्रीय मानवाधिकार दिवस (10 दिसम्बर) के अवसरों पर उत्तर प्रदेश के माननीय न्यायालयों द्वारा आजीवन कारावास के सिद्धदोष बंदियों की रिहाई की जायेगी।

टाईम लाइन

- इस मानक संचालन प्रक्रिया निर्गत होने की तिथि से तीन दिन तक समस्त कारागारों के सिद्धदोष बंदियों की समय पूर्व रिहाई हेतु विरचित प्रावधानों के प्रति बंदियों को जागरूक किया जायेगा एवं प्रार्थना पत्र प्राप्त किये जायेंगे।
- उपरोक्त अवधि बीतने पर जेल प्राधिकारियों द्वारा आजीवन कारावास के सिद्धदोष बन्धियों के समय पूर्व रिहाई हेतु प्राप्त समस्त प्रार्थना पत्रों की अगले दिन जाँच की जायेगी।
- दिनांक 27.09.2022 को समय पूर्व रिहाई हेतु प्रस्तुत प्रार्थना पत्रों के प्रस्ताव को जिलाधिकारी की संस्तुति के साथ कारागार मुख्यालय को उपलब्ध कराये जायेंगे।
- परिक्षेत्रीय उप महानिरीक्षक कारागार, 27.05.2022 को निर्गत मानक नीति संख्या 52/2022/1240/22-2-2022-07 जी/2018, दिनांकित 27.05.2022 के अन्तर्गत प्राप्त प्रार्थना पत्रों को दिनांक 27.09.2022 तक महानिरीक्षक कारागार को प्रेषित करेंगे तथा यह सुनिश्चित कर लेंगे कि कोई भी पात्र व्यक्ति छूटा न हो,

क्योंकि इस नीति के तहत बंदी द्वारा प्रार्थना पत्र प्रस्तुत करने की आवश्यकता नहीं होती है।

- महानिरीक्षक कारागार उपरोक्त समस्त प्रार्थना पत्रों/समय पूर्व रिहाई प्रस्तावों को शासन को माननीय उच्चतम न्यायालय द्वारा परित निर्णय की मंशा के अनुरूप शीघ्रातिशीघ्र उपलब्ध करार्येंगे।
 - शासन स्तर पर गठित समिति द्वारा समय पूर्व रिहाई हेतु पात्र व्यक्तियों की रिहाई का निर्णय लिया जायेगा।
 - समस्त स्तर पर यह सुनिश्चित किया जायेगा कि माननीय सर्वोच्च न्यायालय द्वारा पारित उपरोक्त निर्णय दिनांकित 06.09.2022 का तथा शासन की नीतियों का अक्षरशः अनुपालन किया जाये।
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Standard Operating Procedure (SOP)
for providing Legal Aid to the Under Trial Prisoners
to file their Bail Applications in time before
the Trial Court/Hon'ble High Court

This Standard Operating Procedure (SOP) has been prepared by the U.P. State Legal Services Authority (UPSLSA) in compliance of the order dated 12-09-2022, passed by Hon'ble the High Court of Judicature at Allahabad, in Criminal Misc. Bail Application No. 16961 of 2022 Anil Gaur @ Sonu @ Sonu Tomar Vs. State of U.P., to prevent undue long detention of Under Trial Prisoners(UTPs).

The Hon'ble Court has directed the UPSLSA to prepare a SOP for legal aid prisoners, accused of various crimes, including heinous offences, **who have not filed bail applications before the Hon'ble High Court within a period of one year after the rejection of the bail by the Trial Court** and also to prepare a SOP for the above mentioned prisoners, **who have not been able to move bail applications before the Trial Court, 06 months after imprisonment.**

In the order dated 12-09-2022, the Hon'ble Court, in Para 69, has issued following directions:-

- 1- To identify prisoners who are under trial for various crimes including heinous offences and have not applied for bail before the Trial Court in timely manner after their imprisonment.**

- 2- To identify prisoners who are facing trials for various crimes including heinous offences but have failed to file bail**

applications before the High Court even in an expeditious time frame after rejection of their bail application by the Trial court.

- 3- To identify prisoners who are facing trials in various offences including heinous crimes but are unable to file subsequent bails before the High Court after rejection of earlier bail application by the Hon'ble High Court.**
- 4- To identify prisoners who are unable to effectively prosecute their pending bail applications in various offences including heinous crimes causing delays in hearing.**
- 5- To ascertain whether inability of the said prisoners to expeditiously file or effectively prosecute bail application is caused by factors comprehended under Section 12 read with Section 13 of the Act.**
- 6- To approach prisoners who qualify for legal aid, educate them on their rights of filing bail applications without delay, and determine the nature of legal aid needed by them.**
- 7- To provide legal aid and facilitate filing of bail applications of such prisoners in a timely manner before the competent courts.**
- 8- To facilitate counsels in getting necessary instructions, relevant documents, office support for filing the bail applications.**

9- To facilitate effective prosecution of bail applications by the counsels who should take out measures for listing of bails and hearing of matters.

SOP for timely filing of Bail Applications of Under Trial Prisoners before the Trial / Sessions Court

1) The jail authorities and District Legal Services Authority (DLSA) shall maintain a list of all UTPs, who have not been able to move bail applications before the Trial/Sessions Court, 06 months after imprisonment, in the following format:-

Sl.No.	Name & Father's Name of UTP	Crime No. , Sections of the Act, P.S.	Date of imprisonment	Whether bail application filed by panel lawyer of DLSA (Yes / No)	Date of filling of bail application before the Trial/Sessions Court by panel lawyer of DLSA	Date of order of grant / rejection of bail by the Trial / Sessions Court

- 2) The DLSA shall approach such UTPs, who are entitled for legal aid, make them aware of their rights of filing bail applications without delay and determine the nature of legal aid needed by them.
- 3) The DLSA, in coordination with Jail Authorities, shall contact with such prisoners and after obtaining his/her consent, provide legal aid (as per Section 12 read with Section 13 of the Legal Services Authorities Act, 1987) to such UTPs and ascertain to expeditiously file and effectively prosecute their bail applications, through panel lawyers, before the competent court.

- 4) The DLSAs shall facilitate panel lawyers in getting instructions, relevant documents etc. for filing the bail applications of such prisoners.
- 5) The Panel Lawyers, so appointed, should take out measures for early hearing of the bail applications by the competent court, by specifically mentioning and apprising to the court that the matter is related to the UTP, who has been provided legal aid.
- 6) The DLSAs shall ensure that the date of grant/rejection of bail application by the competent/trial court shall be mentioned in the above format.
- 7) The DLSAs, through Panel /Jail Visiting Lawyers/PLVs, shall intimate the status of the case to such prisoners and take regular feedback from them.
- 8) The DLSAs as well as the Jail Authorities should regularly update the above mentioned list of UTPs.
- 9) The DLSAs/Jail Authorities should also update the details of above mentioned prisoners on e-prison portal, after modifications made by NIC in the e-prison module.
- 10) The DLSAs should maintain a record of such UTPs, whose bail applications have been filed through the Panel Lawyers of DLSAs and the same shall be shared with the UPSLSA, whenever it is desired.

SOP for timely filing of Bail Applications of Under Trial Prisoners before the Hon'ble High Court

- 1) The Jail Authorities and District Legal Services Authority (DLSA) shall maintain a list of all UTPs, who have not filed bail applications before the Hon'ble High Court, within a period of one year after rejection of bail by the Trial/Sessions Court, in the following format:-

Sl.No.	Name & Father's Name of UTP	Crime No. , Sections of the Act, P.S.	Date of imprisonment	Date of rejection of bail by the Trial/Sessions Court	Date of rejection of bail by the Hon'ble High Court, if any

- 2) The DLSAs shall approach such UTPs, who are entitled for legal aid, make them aware of their rights of filing bail applications before the Hon'ble High Court, Allahabad/Lucknow without delay and determine the nature of legal aid needed by them.
- 3) The DLSA, in coordination with Jail Authorities, shall contact with such prisoners and after obtaining his/her consent provide legal aid (as per Section 12 read with Section 13 of the Legal Services Authorities Act, 1987) to such UTPs and ascertain to expeditiously file and effectively prosecute their bail applications, through panel lawyers of High Court Legal Services Committee (HCLSC) Allahabad or High Court Legal

Services Sub-Committee (HCLSSC) Lucknow, before the Hon'ble Court.

- 4) After taking consent of the prisoner, the Secretary of the concerned DLSA shall make a request, in writing, to the Secretary, HCLSC Allahabad / HCLSSC Lucknow to file bail application of such prisoner through Panel Lawyers.
- 5) The HCLSC, Allahabad/ HCLSSC, Lucknow to facilitate panel lawyers in getting instructions, relevant documents etc., for filing the bail applications of such prisoners, with the assistance of the concerned DLSA.
- 6) The appointed Panel Lawyers of HCLSC Allahabad/ HCLSSC Lucknow, should take measures for listing and early hearing of the bail application by specifically requesting mentioning and apprising to the Hon'ble Court that the matter is related to the UTP, who has been provided legal aid.
- 7) The HCLSC Allahabad/ HCLSSC Lucknow shall communicate to the concerned DLSA, the date of grant/rejection of first / subsequent bail application by the Hon'ble Court, so that the same shall be mentioned in the list of UTPs, on the above mentioned format.
- 8) After receiving the communication from the HCLSC Allahabad/ HCLSSC Lucknow, the concerned DLSA, through Panel /Jail Visiting Lawyers/PLVs, shall intimate the status of bail

application to such prisoners and take regular feedback from them and thereafter communicate the same to the HCLSC Allahabad/ HCLSSC Lucknow, if any.

- 9) The DLSAs/ HCLSC Allahabad/ HCLSSC Lucknow as well as the Jail Authorities should regularly update the above mentioned list.
- 10) The DLSAs/ HCLSC Allahabad/ HCLSSC Lucknow/ Jail Authorities should also update the details of above mentioned prisoners on e-prison portal, after modifications made by NIC in the e-prison module, on regular basis.
- 11) The DLSAs/HCLSC Allahabad/ HCLSSC Lucknow should maintain a record of such UTPs, whose bail applications have been filed through the Panel Lawyers of HCLSC, Allahabad/ HCLSSC, Lucknow and share the same with the UPSLSA, whenever it is desired.
- 12) It is, relevant to mention that , in case, the Trial Court passed the judgment of conviction against a prisoner and no bail application has been filed by him /her before the Hon'ble High Court, even after one year from the date of judgment, such prisoners shall also be made aware of his /her right of filing bail application, before the Hon'ble Court.
- 13) If, such convicted prisoner give his/her consent, the Secretary of the concerned DLSA, shall also request to the Secretary,

HCLSC Allahabad / HCLSSC Lucknow to file bail application of such prisoner before the Hon'ble Court.

- 14) The date of grant / rejection of bail applications and status of appeal shall also be communicated by the Secretary, HCLSC Allahabad / HCLSSC Lucknow to the Secretary of the concerned DLSA/Jail Superintendent, so that the same may be intimated to the prisoner and uploaded on the e-prison portal.

ITEM NO.2

COURT NO.2

SECTION PIL-W

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

IA 173194/2018 in Writ Petition(s)(Civil) No(s). 406/2013

RE-INHUMAN CONDITIONS IN 1382 PRISONS

(REPORT OF NALSA ON STANDARD OPERATING PROCEDURE FOR UNDER-TRIAL
REVIEW COMMITTEE)

Date : 04-12-2018 This application was called on for hearing today.

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HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE HEMANT GUPTA

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

Guidelines have been framed by NALSA called "The Standard Operating Procedure for Under-Trial Review Committees".

These Guidelines are taken on record and the Under-Trial Review Committees will adhere to these Guidelines.

It has been stated by NALSA, as a background Note, that, as on 31.12.2017, the data received from different prison authorities indicates that the holding capacity of 1250 prisons in India is 3.78 lakhs and the actual inmates are about 4.19 lakhs. In other words, there is an excess of inmates over the holding capacity. In some prisons, overcrowding is to the extent of 150% of the holding capacity. The overcrowding is particularly acute in the States of Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157%) and Maharashtra (144%).

We have been given to understand that the number of under-trial prisoners of this country constitutes more than 67% of the prisons' population. Urgent steps are quite clearly and obviously necessary for the release of under-trial prisoners, if not for the early conclusion of their trial.

Under these circumstances, though NALSA has recommended for quarterly meetings to be held by the Under-Trial Review Committees, we direct that in the first six months of the year 2019, the Under-Trial Review Committees will meet once in a month to review the cases of under-trial prisoners and submit a report to the State Legal Services Authority. The reports will then be compiled and forwarded to NALSA.

The Guidelines be circulated to all the States/Union Territories, Director General of Prisons in all States/Union Territories and the State Legal Services Authorities.

Application stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
ASSISTANT REGISTRAR



NALSA's
STANDARD OPERATING PROCEDURE (SOP)
for UNDER TRIAL REVIEW COMMITTEES (UTRCs)

WP (C) 406/2013 – In Re-Inhuman Conditions in 1382 Prisons

NATIONAL LEGAL SERVICES AUTHORITY

12/11, JAM NAGAR HOUSE, NEW DELHI

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Background

In terms of the Section 12(g) of the Legal Services Authorities Act, 1987, a Person in Custody is entitled to free and competent legal services. In India, as per prison statistics. 2015 released by NCRB, there are around 1250 Central, State and Sub-jails, housing around 4.19 lacs prisoners including 80,000 women. According to NCRB data, 67 % of the above inmates i.e. 2.94 lacs are UTPs. This percentage of UTPs is one of the highest in the World in so far as the World UTP average in the prisons is only 31 %.

As on 31.12.2017, as per the data received from different Prison Authorities the holding capacity of 1250 prisons in India is 3.78 lacs and the actual inmates are 4.19 lacs. Accordingly, the prisons in India are overcrowded by 114 %. Situation in some of the Prisons is so precarious that they are holding more than 150% of their holding capacity. While the situation in States like Tamil Nadu (66%), Telangana (76 %), West Bengal (66 %) is comfortable given to the fact that the States constructed adequate number of prisons but the situation is serious in States like Uttar Pradesh (182%), Uttarakhand (159%), Chhattisgarh (157 %), Maharashtra (144%) where the number of Prisons is quite low.

1158 Legal Services Clinics have been established by the Legal Services Institutions in around 1250 jails.

In this background, Chief Justice R. C. Lahoti (Retired) wrote a letter dated 13.06.2013 addressed to Hon'ble Supreme Court of India highlighting over crowding in prisons, inadequacy of staff, need of training, unnatural deaths, etc. This letter was registered as Public Interest Litigation by Supreme Court of India on 05.07.2013.

Series of directives on the above subjects were passed by the Hon'ble Supreme Court of India to various Authorities/Departments. On 24.04.2015, Hon'ble Supreme Court of India directed that Prisoners Management Software (PMS) being used in Tihar Jail, Delhi may be improved and deployed in all other jails in the country.

It was followed by the appointment of Director, NALSA as Nodal Officer to assist the Hon'ble Supreme Court Bench. NALSA issued directions to the State Legal Services Authorities and District Legal Services Authorities for helpline release of prisoners who could not furnish the bail bonds. Model Prison Manual was also drafted by Ministry of Home Affairs with the help of NALSA.

On. 18.09.2015, It was highlighted that the Under Trial Review Committee (UTRC) constituted by the Ministry of Home Affairs shall consider the cases of inmates who have completed half of their sentence in terms of Section 436A Cr. P.C.

On 05.02.2016, UTRCs were directed to meet at least once in every quarter starting from 31.03.2016 and Secretary of District Legal Services Authority was made member of the Committee to assist the UTRC.

On 06.05.2016, the domain of UTRC was enhanced much beyond Section 436(A) Cr. P.C. by inclusion of total 14 categories of inmates for consideration of their early release.

On 31.10.2017, NALSA was directed to prepare a Standard Operating Procedure (SOP) for smooth functioning of Under Trial Review Committees (UTRCs) with an aim to ensure that UTPs covered under 14 categories get benefit without delay.

On 12.12.2017, SOP was prepared and as per the directions of Hon'ble Supreme Court of India the same was circulated with the various stakeholders and placed on website of NALSA for inviting suggestions. The suggestions received from different stakeholders were incorporated with the help of Ld. Amicus Curiae.

On 08.05.2018, an SOP containing additional suggestions was placed on Record of Hon'ble Supreme Court of India. Vide an order dated 02.08.2018, NALSA was directed to redraft the SOP.

This redrafted final SOP has been prepared accordingly.





NALSA's

STANDARD OPERATING PROCEDURE (SOP) FOR UTRCs

PART-I

Definitions:

- a) "Jail" means Central Jail, District Jail, Sub Jail, Women Jail, Special Jail and borstals.
- b) "Jail Superintendent" includes Deputy Superintendent and Officer Incharge of the jail.
- c) "UTPs" means Under Trial Prisoners who are in custody at the time of preparation of the list of UTPs by the Superintendent and includes inmates who are out on interim bail.
- d) "UTRC" means Under Trial Review Committee chaired by District & Sessions Judge consisting of District Magistrate, Superintendent of Police, Secretary, DLSA and Jail Superintendent, as members.
- e) "E-Prison Portal/ PMS" means E-Prison Portal developed by NIC under directives of Ministry of Home Affairs and includes stand alone Software developed by States for their Jails.
- f) "Secretary DLSA" means Secretary of the concerned District Legal Services Authority appointed u/s 9(3) of Legal Services Authorities Act, 1987 and any other officer officiating as Secretary.
- g) "Bail Applications" Bail applications include applications moved u/s 436A, 437 Cr.P.C. and 439 Cr.P.C. apart from other provisions pertaining to technical bail under the Cr.P.C., namely bail under proviso to Sections 167 and 437 (6) Cr.P.C. and similar provisions in other special enactments.

**SOP FOR UTRCS WHERE JAIL RECORDS ARE NOT
DIGITIZED AND EVEN IF DIGITIZED NO SOFTWARE
FILTERS HAVE BEEN APPLIED.**

STEP 1: Reporting of Data of UTPs / Convicts by Prisons.

1.1 The Jail superintendent of every jail in the district will collate the data regarding the UTPs lodged in the jail in the format as per **Annexure-A** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet.

Particulars of UTPs

- (1) Name of the UTP
- (2) Father's name
- (3) Gender / Age
- (4) FIR/Crime No
- (5) Police Station
- (6) District
- (7) Arrested under section-
- (8) Particulars of the Court
- (9) Date of Arrest
- (10) Date of First Remand
- (11) Date of admission in prison
- (12) Date of filing charge sheet.
- (13) Chargesheeted under Section-
- (14) UTP represented by Legal Aid/Private Lawyer
- (15) Name of the lawyer with contact details, if available.
- (16) Whether bail has been granted to the accused, if so when.
- (17) If accused is not released on bail despite grant of bail, reason for the same, if available.
- (18) If the UTP suffering from any disease, mental or physical, details regarding the same.
- (19) Whether UTP is a convict/Under trial in any other case.
- (20) If yes, separate entry in the data sheet be made qua the additional Case.

1.2 Particulars of convicts - A separate 'List of Convicts' be prepared as per **Annexure-B** with the following information and share it with Secretary, DLSA preferably in soft Excel Sheet: -

- (1) Name of the Convict
- (2) Father's Name
- (3) FIR No.
- (4) Police Station
- (5) District
- (6) Name of the Trial Court
- (7) Date of Conviction
- (8) Duration & Nature of Sentence
- (9) Total Remission Earned
- (10) Date when sentence completed
- (11) Reason for Non-Release
- (12) Whether case considered by Sentence Review Board?
- (13) Reason for not granting pre-mature release
- (14) Additional information or Remark

1.3 The aforesaid detail as on 31st March, 30th June, 30th September, 31st December of every year may be sent by the Jail Superintendent to the Secretary DLSA latest by 7th day of the next following month.

STEP 2: Processing of Data by Secretary, DLSA

2.1 The office of Secretary, DLSA, with the aid of empaneled panel lawyers, Retired Judicial Officers and law students trained as PLVs, if required and available, shall draw list of UTPs/Convicts eligible for consideration by the UTRC out of Data sent to him from Step-I in the light of criteria laid down by Hon'ble Supreme Court in *WP(C) 406/2013-Re-Inhuman Conditions in 1382 Prisons*, as per detailed hereunder (Para 2.2).

If any further details are required by the Secretary, DLSA from any court or from the Jail Superintendent or from the police authorities, the same may be ascertained by the Secretary DLSA. Thereafter, the Secretary DLSA shall prepare a list of eligible UTPs for consideration of UTRC in the Excel Sheet/Soft form as per **Annexure A & B**.

2.2 Cases of UTPs / Convicts falling under following categories shall be considered by the Secretary, DLSA for placing them before the UTRC:-

2.2.1 UTPs / Convicts falling under covered under Section 436A Cr.P.C.
[As per order of Hon'ble Supreme Court dated 24th April, 2015]

- 2.2.2 UTPs released on bail by the court, but have not been able to furnish sureties.
[As per order of Hon'ble Supreme Court dated 24th April, 2015]
- 2.2.3 UTPs accused of compoundable offences.
[As per order of Hon'ble Supreme Court dated 24th April, 2015]
- 2.2.4 UTPs eligible under Section 436 of Cr.P.C.
[As per order of Hon'ble Supreme Court dated 05th February, 2016]
- 2.2.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment.
[As per order of Hon'ble Supreme Court dated 05th February, 2016]
- 2.2.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them.
[As per order of Hon'ble Supreme Court dated 05th February, 2016]
- 2.2.7 UTPs become eligible to be released on bail u/s 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days.
[As per order of Hon'ble Supreme Court dated 06th May, 2016]
- 2.2.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years.
[As per order of Hon'ble Supreme Court dated 06th May, 2016]
- 2.2.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. u/s 107, 108, 109 and 151 of Cr.P.C.
[As per order of Hon'ble Supreme Court dated 06th May, 2016]
- 2.2.10 UTPs who are sick or infirm and require specialized medical treatment.
[As per order of Hon'ble Supreme Court dated 06th May, 2016]
- 2.2.11 UTPs women offenders
[As per order of Hon'ble Supreme Court dated 06th May, 2016]
- 2.2.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of

imprisonment and have suffered at least 1/4th of the maximum sentence possible.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.2.14 UTPs eligible for release under Section 437(6) of Cr.P.C, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case.

[As per order of Hon'ble Supreme Court dated 06th May, 2016]

2.3 The DLSA Secretary must inform the District & Sessions Judge that the complete list has been prepared and request him to convene the UTRC meeting at the earliest. A copy of the list may also be shared with other members of the UTRC so that they can come prepared for the meeting.

STEP 3: Processing of identified cases by UTRC

3.1 The District & Sessions Judge shall convene the UTRC meeting as soon as the intimation is received from the DLSA, Secretary about the completion of the lists.

3.2 UTRC shall consider the cases shortlisted by the Secretary, DLSA and make recommendations for release/ appropriate action.

3.3 Upon processing the individual cases, the recommendations of UTRC may include:-

3.3.1 In case UTPs covered under Section 436A Cr.P.C.:

UTRC may recommend to concerned trial court to take up the matter and consider him/her for release on bail if there are no special reasons to deny bail, with or without sureties.

3.3.2 UTPs released on bail by the court, but have not been able to furnish sureties:

The UTRC may recommend the trial court to examine the reason why the accused is not furnishing surety/ bail bonds and if he/she is unable to do so due to poverty, then the trial court may consider reducing the

bail amount on the application of the lawyer under S.440, CrPC or release on personal bond.

3.3.3 UTPs accused of compoundable offences:

The UTRC may recommend to the trial court to consider if the offence can be compounded between the complainant and the accused as per law.

3.3.4 UTPs eligible under Section 436 of Cr.P.C.:

The UTRC may recommend to the trial court to consider releasing such an accused on personal bond in case he is unable to furnish bail bond within seven days of bail order.

3.3.5 UTPs who may be covered under Section 3 of the Probation of Offenders Act, namely accused of offence under Sections 379, 380, 381, 404, 420 IPC or alleged to be an offence not more than 2 years imprisonment:

The UTRC may recommend to the trial court to consider invoking of Probation of Offenders Act in fit cases as also plea bargaining in appropriate cases.

3.3.6 Convicts who have undergone their sentence or are entitled to release because of remission granted to them:

The UTRC may examine the reason for non-release of the convict and the Officer in-charge of prison may be recommended to look into the matter so that the convict is released as soon as possible.

3.3.7 UTPs become eligible to be released on bail under Section 167(2)(a)(i) & (ii) of the Code read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) and where investigation is not completed in 60/90/180 days:

The UTRC may recommend to the trial court to consider release of the accused in cases where chargesheet is not submitted within the statutory time frame.

3.3.8 UTPs who are imprisoned for offences which carry a maximum punishment of 2 years:

The UTRC may recommend to the trial court to consider releasing of the UTP on bail in such cases.

3.3.9 UTPs who are detained under Chapter VIII of the Cr.P.C. i.e. under Sections 107, 108, 109 and 151 of Cr.P.C.:

The Executive Magistrate/ District Magistrate court may be recommended to release/discharge such persons with or without conditions or to make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

3.3.10 UTPs who are sick or infirm and require specialized medical treatment:

The UTRC may examine the medical condition of the inmate and if it is found that the inmate is very sick and specialized treatment is essential for survival, then the UTRC may recommend the trial court to consider granting bail on medical ground, as provided under S.437, CrPC, even for temporary period.

3.3.11 UTPs women offenders:

Women under trial prisoners who are not accused of serious offences may be considered for release on bail under S.437, CrPC, especially they are first time offenders by the concerned trial courts. The UTRC may also recommend suitable measures under the directions of the Hon'ble Court in R. D. Upadhyay vs State of A.P. & Ors. (AIR 2006 SC 1946).

3.3.12 UTPs who are first time offenders between the ages 19 and 21 years and in custody for the offence punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence possible:

The UTRC may request the trial court to consider granting bail to such young offenders. If the person is found guilty in the course of trial, benefit of S.3 or S.4 of the Probation of Offenders Act, 1958, may be given to the accused.

3.3.13 UTPs who are of unsound mind and must be dealt with Chapter XXV of the Code:

UTRC may recommend the trial court to take appropriate steps in accordance with Chapter XXV of the Code and provide adequate treatment to such inmates.

3.3.14 UTPs eligible for release under Section 437(6) of Cr.P.C., wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case:

UTRC may request the trial court to consider granting bail to such UTPs under Section 437(6) of Cr.P.C.

3.4 The UTRC shall enter its recommendation in column no. 21-23 of Annexure-A and column no.15-17 of Annexure-B.

3.4.1 Recommendation of UTRC

3.4.2 Date of recommendation

3.4.2 Brief reasons for UTRC recommendation

3.5 The UTRC shall share recommendations with the concerned Trial Court/Jail Superintendent and Secretary, DLSA. Jail Superintendent shall bring it to the notice of UTP/Convict. Secretary, DLSA shall instruct the panel lawyers to move appropriate application in legal aided cases. The Trial Courts may deal with the recommendations in the manner deemed appropriate for each particular case with the assistance of Legal Aid/Private Lawyer.

STEP 4: Follow up:

UTRC shall keep track of the follow up action in recommended cases as detailed in **Annexure-A (Column No.24- 26) & Annexure-B (Column No.18-20)** as under:-

4.1 Action taken on recommendation.

4.2 Final Outcome

4.3 Date of release of UTP/Convict.

STEP 5: Collation of data on quarterly basis by the Secretary, DLSA

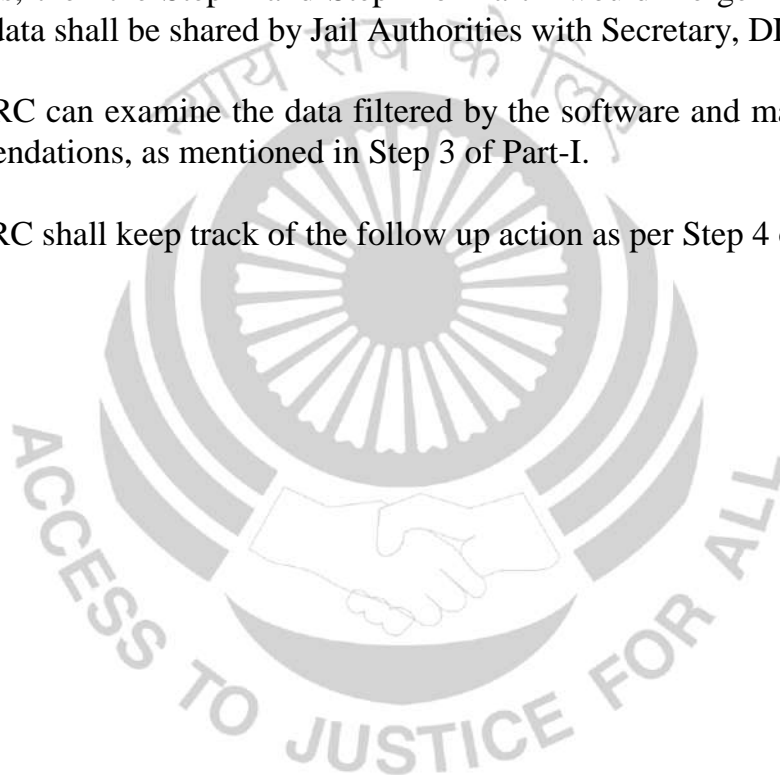
Secretary, DLSA shall collate the above data in **Annexure-A & B** and generate quarterly report under the following heads:

1. Number of UTPs/Convicts considered by UTRCs in a given quarter/year.
2. Number of UTPs/Convicts recommended for bail/release.
3. Number of bail/other applications moved post recommendations.
4. Number of inmates released pursuant to UTRC's recommendation.

PART-II

SOP for UTRC where Jails are digitized and have Software to filter the cases which are eligible for release

- 5.1 If the jail concerned has appropriate data in digital format and is able to apply the filters, then the Step 1 and Step 2 of Part-I would merge into one and the filtered data shall be shared by Jail Authorities with Secretary, DLSA.
- 5.2 The UTRC can examine the data filtered by the software and make appropriate recommendations, as mentioned in Step 3 of Part-I.
- 5.3 The UTRC shall keep track of the follow up action as per Step 4 of Part-I.



NALSA's ADDITIONAL SUGGESTIONS

In order to expedite Trials and ensure Access to Justice for UTPs/Convicts NALSA suggests following new initiatives:-

Suggestion No.1 : Usage of modified 'Custody Warrant'

- NALSA has designed a new Modified Custody Warrant which is annexed as **Annexure 'C'**. The need thereof arose since as on date the Prison Data is maintained only on the basis of case details received by the Jail Authorities from the First Custody Warrant which is in turn based solely on case particulars contained in the FIR. This data is amenable to change at different stages i.e. stage of filing of Chargesheet, framing of Charge and then passing of final Judgement.

Adoption of this new Modified 'Custody Warrant' is necessary as unless the specific offence in which UTP is kept in detention is regularly updated, the software filters will not be able to give correct results. For example, an accused initially arrested u/S 302 IPC may be finally chargesheeted u/S 304 IPC.

This new Modified Custody Warrant carry the particulars of the Legal Aid Counsel/Private Counsel representing the UTPs at different stages.

Suggestion No.2: Training/sensitization of Remand Court/Trial Court to safeguard the rights of the UTPs to be considered for bail.

It is suggested that judicial academies of respective States may undertake training/sensitization courses of judicial officers with an aim to highlight the reason behind the UTPs : Convicts ratio in prisons which currently stands as 67% : 33% in our country. The world average of UTPs : Convicts ratio stands at only 31%:69%. The Training of judicial officers may include highlighting importance of -

- Compliance of Section 41, 41 A to D Cr.P.C. by police authorities.
- Release of arrested persons/UTPs in deserving cases by invoking Section 59 of Cr.P.C with or without bond.
- Highlighting importance of 14 situations/criteria laid down by Hon'ble Supreme Court in WP Civil No. 406/2013 "Re-inhuman conditions in 1382 prisons" and their timely compliance for decongestion of jails.

Suggestion No.3: Inclusion of Chief Public Prosecutor in UTRC.

- State is represented by Public Prosecutor in each criminal court i.e. MMs/Sessions. As and when any Bail Application is moved by the UTPs either on merits or on technical grounds, as a matter of routine, it is observed that they are opposed by Public Prosecutors/Additional Public prosecutors/Asstt. Public prosecutors representing State in the Court. Hence, inclusion of Chief Public Prosecutor of the District in the UTRC would assist in compliance of directions of Hon'ble Supreme Court.

Suggestion No.4: Expanding the mandate of UTRC

- UTRC is mandated to ensure compliance of directions issued by Hon'ble Supreme Court. However to ensure that UTPs' right to speedy trial is upheld, it is proposed that UTRC shall look into the individual cases so as to ascertain as to why a particular criminal trial is not getting concluded in a reasonable time and is getting dragged. Such a review of individual cases would go a long way in identifying the broad reasons which results in the delay of trials. This would also help reduce imbalance of 67%:33% UTPs:Convicts ratio.
- While identifying bottle necks in the Criminal Justice System of a particular district, other facets which can be looked into and addressed by the UTRC may include:
 - 4.1 Check on non-compliance of Section 41 Cr.P.C. to curtail avoidable/unnecessary arrests by the Police.
 - 4.2 Non production of UTPs before the Remand/Trial Court either in person or via video conferencing facility on account of lack of logistic facilities.
 - 4.3 Delay caused by frequent inter-state transfer of UTPs
 - 4.4 Non filing of FSL/CFSL report in time.
 - 4.5 Failure of police to trace, serve and produce the Public/Expert witnesses.
 - 4.6 Delay caused in frequent transfer of investigation related witnesses like police officials, documents.
 - 4.7 Non availability of dedicated PPs in each criminal court.
 - 4.8 Rational distribution of criminal cases in different courts within district

- 4.9 Paucity of staff like Ahlmad or stenographer for the criminal court
- 4.10 Delay caused by lack of efficiency in administrative set up like Copying Agency, Facilitation Centre, Record Room(in case of fetching of old file) etc.
- 4.11 IT Infrastructural need like, Desktop, printer, NIC-net, stationary etc. apart from Data entry professionals.
- 4.12 Popularize ADR methods as also Plea Bargaining for quick disposal.
- 4.13 Suggest segregation of trial in case one or more co-accused are absconding.
- 4.14 Availability of effective and efficient Free Legal Aid Services.
- 4.15 Seeking Cooperation from the Bar for expediting trial.
- 4.16 Any other issue which is hampering the early conclusion of criminal trials in the District.

Once the respective UTRCs start taking cognizance of these problems and suggest remedial measures to the concerned Duty Holders, the delay in disposal of criminal cases can be curtailed to a great extent and learning out comes of such suggestions can help in Policy formulation for improving efficiency of Criminal Justice System's operation in not only the District but also in the State.



TEMPLATE

List of eligible UTPs for consideration of UTRC																		Annexure-A	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Name of the UTP	Father's name	Gender/Age	FIR/Crime no.	Police Station	District	Arrested under Section	Particulars of the Court	Date of arrest	Date of first Remand	Date of admission in Prison	Date of filing chargesheet	Chargesheeted under Section	UTP represented by Legal aid/private	Name of the lawyers with contact details, if available	Whether bails has been granted to the accused, if when	If accused is not released on bail despite grant of bail, reason for the same, if available.	If the UTP suffering from any disease, mental or physical, details regarding the same.	Whether UTP is a convict/Under trial in any other	If yes, separate entry in the data sheet be made qua the additional Case.

Note:

- Column Nos. 1 to 20 to be filled by Jail Superintendent.

Contd.....

TEMPLATE

Annexure-A

21	22	23	24	25	26
Recommendation of UTRC	Date of Recommendation	Brief reasons for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of UTP

Note:

- Column Nos. 21 to 26 to be filled by UTRC.

TEMPLATE

Annexure-B

List of Convicts

1	2	3	4	5	6	7	8	9	10	11	12	13	14
S.No.	Name of the Convict	Father's Name	FIR No.	Police Station	District	Name of the Trial Court	Date of Conviction	Duration & Nature of Sentence	Total Remission Earned	Date when sentence completed	Reason for Non-Release	Whether case considered by Sentence Review Board?	Reason for not granting pre-mature release

Note:

- Column Nos. 1 to 14 to be filled by Jail Superintendent.

Contd...

TEMPLATE

Annexure-B

15	16	17	18	19	20
Recommendation of UTRC	Date of Recommendation	Brief reasons for UTRC recommendation	Action Taken on recommendation	Final Outcome	Date of release of Convict

Note:

- Column Nos. 15 to 20 to be filled by UTRC.

“CUSTODY WARRANT”

Jail No. : _____

Name		FIR No	
Father's Name		U/s(as per FIR)	
Age		Arrested U/s	
Gender		Police Station	
Address		District	
Nationality		Date of Arrest	

PHOTO
OF
INMATE

REMAND DURING INVESTIGATION

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		

- Date of Filing of Charge Sheet :
- Offences against the Accused :

REMAND AFTER FILING OF CHARGE SHEET

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

- Date of Committal in Sessions trial cases:.....
- Date of Framing of Charge :
- Charge framed under offences :

REMAND DURING PROSECUTION EVIDENCE

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		
4		
5		

REMAND DURING STATEMENT OF ACCUSED

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

REMAND DURING DEFENCE EVIDENCE

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

REMAND DURING FINAL ARGUMENTS

ADVOCATE.....(Pvt/Legal Aid)

S.No.	Date	Remand Order by Ld. Judge/Next date in the Court
1		
2		
3		

- **Result of Trial** :
- **Judgement Pronounced on** :
- **If convicted, offences convicted under** :
- **Sentence imposed** : (Attach separate sheet)
- **Compensation awarded to victim** : (Attach separate sheet)