

Recommendations of High Power Committee:

Firstly, guidelines laid down by the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar, (2014) 8 scc 273, shall be strictly followed. It shall be duty of all stakeholders to ensure compliance of above Guidelines.

Secondly, all the inmates who had been released on interim bail earlier pursuant to the order of Hon'ble Supreme court on 23.03.2020 in Sua Moto Petition no. 1/2020 in Re: Contagion of Covid 19 Virus in Prisons shall again be released on interim bail for the period of 90 days from the date of their release.

Thirdly, those inmates who were earlier granted parole, pursuant to the order of Hon'ble Supreme court on 23.03.2020 in Sua Moto Petition no. 1/2020 in Re: Contagion of Covid 19 Virus in Prison shall again be granted parole for a period of 90 days from the date of their release.

Fourthly, in respect of fresh release, the HPC recommends the following criteria:

Criteria for release of Under trial prisoners:

".....The under trial prisoners, who are satisfying the following criteria shall be released:

1. Inmates undergoing Civil Imprisonment.
2. Under trial prisoners (UTPs) who are facing trial in a case which prescribes a maximum sentence of 07 years or less wherein he/she is in custody for a period of 15 days or more ;
3. Under trial prisoners (UTPs)/Remand Prisoners (with respect to whom, charge sheet are yet to be filed), who are in custody for 15 days or more, facing trial in a case which prescribes a maximum sentence of 07 years or less ;
4. Under trial prisoners (UTPs), who are senior citizens of 60 or more than 60 years of age and are in custody for three months or more, facing trial in a case which prescribes a maximum sentence of 10 years or less.

5. Under trial prisoners (UTPs) facing trial for offence under Section 304 IPC and are in jail for more than six months with no involvement in any other case.
6. Under trial prisoners (UTPs) facing trial in a case under Section 307 IPC and are in jail for more than six months; subject to the condition that he should not be involved in any other case which prescribes punishment of more than 7 years ;
7. Under trial prisoners (UTPs) (who are related as spouse of the deceased) facing trial for a case under 304B IPC and are in jail for more than one year with no involvement in any other case;
8. Under trial prisoners (UTPs) (who are related as father-in-law, mother-in-law, brothers-in-law, sisters-in-law of the deceased) facing trial for offence under Section 304B IPC and are in jail for more than six months with no involvement in any other case;

It has further been resolved that following category of UTPs, even if falling in the above criterion should not be considered :-

1. Those inmates who are undergoing trial for intermediary/ large quantity recovery under NDPS Act ;
2. Those under trial prisoners who are facing trial under Section 4 & 6 of POCSO Act;
3. Those under trial prisoners who are facing trial for offences under section 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, and 376E and Acid Attack;
4. Those UTPs who are foreign nationals ;
5. Those under trial prisoners who are facing trial under Prevention of Corruption Act (PC Act) / PMLA; and
6. Cases investigated by CBI/ED/NIA/Special Cell, Crime Branch, SFIO, Terror related Cases, Riot cases, cases under Anti-National Activities and Unlawful Activities (Prevention) Act etc.

EXCLUSION CLAUSE

Apart from the above six categories, Committee resolved to exclude those UTPs who after having availed the benefit of the criteria adopted in the earlier meetings, had committed fresh crimes while on interim bail. Thus, following seventh and eighth category is also included in the exclusion clause.

7. Those Under Trial Prisoners who are now in custody for an offence committed by him during the period of interim bail granted to him on the basis of criteria adopted by High Powered Committee in its earlier meetings;

8. Those Under Trial Prisoners who were granted interim bail on the basis of criteria adopted by High Powered Committee in its earlier meetings but failed to surrender in terms of the surrender order and are now in custody, only on execution of non-bailable warrant against him/them.

Strategy for release of Under trial Prisoner on interim bail:

1. Under trial prisoners can be released on their Personal bond to the satisfaction of Jail Superintendent.

2. Looking to the present scenario of Corona (Covid- 19), they can be released on interim bail for the period of 90 days from their release.

3. Application on behalf of identified under trial prisoners can be filed by concerned DLSA before the duty Magistrate, who shall satisfy himself or herself as to whether criteria laid down by high powered committee have been complied with or not. Thereafter, a brief interim bail order shall be issued with stipulation that deserving prisoner be released on interim bail on submission of his or her personal bond to the satisfaction of concerned Jail Superintendent.

Strategy for release of convicted prisoners on Parole:

They shall be released on parole or furlough by Jail administration as per act and rules related to parole or furlough prevailing in the state of Chhattisgarh. Decision in this regard shall be taken by the Jail Administration.

Clarification:

Query 01. Whether accused persons are to be released under criteria no 7 and 8, if charges under section 302 IPC has also been framed either or in addition to/ in alteration to the charge under section 304B, IPC?

Clarification: No.

Query 02. Whether accused persons are to be released on interim bail even if their regular bail has earlier been rejected either by Hon'ble High Court or by Hon'ble Supreme Court?

Clarification: No.

Query 03. Whether application for interim bail may also be filed before the duty Judge having the cadre of HJS or it is to be filed only before duty Magistrate?

Clarification: In respect of cases triable by Magistrate, application is to be filed before the duty Magistrate, and in cases triable by Sessions court/Special court etc., application is to be filed before the duty Judge of HJS cadre.