

**CHAPTER – XIX
(PREMATURE RELEASE)**

PREMATURE RELEASE

516. The primary objective underlying premature release is reformation of offenders and their rehabilitation and integration into the society. While at the same time ensuring the protection of society from criminal activities. These two aspects are closely interlinked. Incidental to the same is the conduct, behaviour and performance of prisoners while in Sansodhanagar. These have a bearing on their rehabilitative potential and the possibility of their being released by virtue of remission earned by them, or by an order granting them premature release. The most important consideration for pre-mature release of prisoners is that they have become harmless and useful member of a civilized society.

517. TYPES OF PREMATURE RELEASE

Premature release of prisoners can be of following four types :

- (1) By way of commutation of sentence of life convict and other convict under Section 433 of the Code of Criminal Procedure, 1973 by the Government ;
- (2) By way of remitting term of sentence of a prisoner under Section 432 of the Code of Criminal Procedure, 1973 by the State Government;
- (3) By order of the Head of the State passed exercising power under Article 72 or Article 161 of the Constitution of India, as the case may be;
- (4) Pre mature release under any special law enacted by the State providing for release on probation of good conduct of prisoners after they have served a part of the sentence.

518. GUIDELINES

No guidelines need to be prescribed here for premature release of convicts falling under sub rule 2 to 4 above because the relevant provisions of the Code of Criminal Procedure, 1973, the Constitution of India and the special legislation of the State are to be followed. For premature release of convicts falling under sub rule (1) above, guidelines or policy for premature release of life convicts as prescribed in this chapter may be followed :

519. COMPOSITION OF THE STATE LEVEL COMMITTEE (SLC)

The State Government shall constitute a State Level Committee (SLC) to recommend premature release of life convicts in appropriate cases. This shall be a permanent body having the following members :

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| (1) Principal Secretary/Secretary
In-charge of Sansodhanagars | - | Chairman |
| (2) Law Secretary/Legal remembrancer | - | Member |
| (3) District Magistrate, West Tripura | - | Member |
| (4) Two non-official members(one shall
be female) to be selected by the
Government. | - | Member |
| (5) Head of the Department of
Sansodhanagars | - | Member Secretary |

520. QUORUM

The cases put forward to the SLC shall be considered even when one or more members of the Committee are not able to attend the meeting or when there is a vacancy on the Committee. The quorum shall comprise of 3 (three) members and the SLC shall not take any decisions when the quorum is not complete.

521. PERIODICITY OF THE SLC'S MEETINGS

- (1) The SLC shall meet once or twice in a calendar year at a gap of 6 (six) months at the State Headquarter on a date to be notified to its members at least 10 (ten) days in advance by the Member Secretary. The notice of such a meeting shall be accompanied by complete agenda papers.
- (2) However, the Chairman of the SLC can convene a meeting of the Committee more frequently, even at short notice, if necessary.

522. ELIGIBILITY FOR PREMATURE RELEASE

The following categories of life convict prisoners shall be eligible to be considered for premature release by the SLC.

- (1) Women offenders sentenced to life imprisonment on completion of eight years of imprisonment, including remission, except those covered under Section 433-A of the Code of Criminal Procedure, 1973, whose cases will be considered after completing 14 years of actual imprisonment ;
- (2) Life convicts (men and young offenders) on completion of 10 years of imprisonment, including remission, except those covered under Section 433-A of the Code of Criminal Procedure, 1973, considered after completing 14 years of actual imprisonment .
- (3) Old and infirm offenders of 65 years of age on the day of the commission of the offence, sentenced to life imprisonment on completion of 10 years of sentence including remission or 75 years of age, whichever is earlier, subject to the condition that they shall not be actually released unless they have undergone at least five years of imprisonment including remission.

Non-eligibility:- Prisoners convicted of offences such as rape, dacoity, terrorist crimes, kidnapping, kidnapping for ransom, crime against women & children, smuggling (including those convicted under NDPS Act), Prevention of Corruption Act, Immoral Traffic Prevention Act, offences against State, and undergoing life imprisonment, Unlawful Activities (Prevention) Act, 1967, except those who have completed 14 years of sentence inclusive of remission, shall not be eligible.

523. PROCEDURE

For every life convict eligible for eventual consideration by the SLC under the rules:

- (1) Every Superintendent in charge of a Sansodhanagar shall initiate the case of a prisoner at least three months in advance of his/her becoming eligible for consideration for premature release as per the criteria laid down by the Government in the guidelines to be notified separately for eligibility of premature release of life convicts ;
- (2) The Superintendent of Sansodhanagar shall prepare a comprehensive note for each prisoner, giving his family and societal background as per the record of the case, the offence for which he was convicted and sentenced, and the circumstances under which the offence was committed. The Superintendent shall also reflect fully on the conduct and behaviour of the prisoner in the Sansodhanagar during the period of his incarceration, and during his release on probation or leave, change in his or her behavioural pattern, and Sansodhanagar offences, if any, committed by him or her and punishment awarded to him for such offences. A report shall also be made about his physical and mental health or any serious ailment with which the prisoner is suffering, entitling him for premature release as a special case. The note shall also contain recommendation of the Superintendent, i.e., whether he favours the premature release of the

prisoner or not. In either case such recommendation shall be supported by adequate reasons.

524. OTHER CASES OF PREMATURE RELEASE

- (1) When a convicted prisoner, in the opinion of a Medical Board, is in danger of death from sickness (not due to an infectious disease) with no hope of recovery within or outside the Sansodhanagar, the Superintendent shall report the fact to the Inspector General of Correctional Services, if it is considered desirable to allow such prisoners the comfort of dying at home.
- (2) If the unexpired period of the prisoner's sentence does not exceed six months, the Inspector General of Correctional Services may direct his immediate release, after making personal inquiries into the case and consulting the District Magistrate of that District.
- (3) If the unexpired period of the prisoner's sentence exceeds six months, the Inspector General of Correctional Services shall immediately report the facts of the case, along with his recommendations, to the Government.
- (4) No prisoner, without any friends or relatives willing to take charge of him/her, shall be released under this rule.
- (5) This rule shall not apply to a prisoner who goes on a hunger strike. A prisoner on hunger strike shall in no circumstances be released.
- (6) If a Medical Board considers that a convicted prisoner is in danger of dying from illness (not due to an infectious disease), and that there is a probability of his/her recovery when released, he shall furnish a certificate to that effect. On receipt of the certificate the Superintendent shall immediately report the fact to the Inspector General of Correctional Services. He shall also at the same time send for the prisoner's relatives or friends and ascertain whether they are willing to look after him. If so, he shall take from them a security bond to the effect that in the event of the prisoner being prematurely released on account of illness, they will give him/her up at any time they may be required to do.
- (7) If a prisoner detained solely under a sentence of imprisonment in default of furnishing security to maintain peace or for good behaviour, is so seriously ill that he/she is likely to die, whatever be the terms of his unexpired sentence, the Superintendent shall refer the case to the District Magistrate of the District, in case the order is passed by an Executive Magistrate, or to the Court of Sessions, in case the order has been passed by a Judicial Magistrate, for necessary orders of release under Section 123 of the Code of Criminal Procedure, 1973.
- (8) Every case of release under these rules shall immediately be reported to the Head of the Sansodhanagars Department by the Superintendent of Sansodhanagar. The District Magistrate and Superintendent of Police of the District of the convict so released shall also be informed accordingly by the Superintendent of Sansodhanagar.
- (9) If the friends or relatives of a sick or dying prisoner, whose release has been sanctioned under above rules, express their inability to meet the expenses of a journey to the Sansodhanagar, the prisoner may be transferred, if fit to travel in anticipation of sanction of the Head of Sansodhanagars Department or Inspector General, to the Sansodhanagar of the District where he/she shall stay provided that no prisoner shall be so transferred to any District beyond the jurisdiction of the State without the special sanction of the Government.
- (10) In the event of such a prisoner dying before he/she can be released, the death shall be recorded in the records of the Sansodhanagar from which he/she was transferred.

525. GUIDELINES FOR THE SLC

- (1) The Member Secretary shall convene a meeting of the SLC on a fixed date and time at the State Headquarters. Notice of such meeting shall be given to the Chairman and Members of the Board at least ten days in advance and such notice shall be accompanied by complete agenda papers, i.e. the notice of the Superintendent of Sansodhanagar along with copies of other necessary documents, if any.
- (2) The meeting shall ordinarily be chaired by the Chairman and if, for some reasons, he/she is unable to be present, it shall be chaired by the Law Secretary-cum-legal Remembrancer. The Member Secretary shall present the case of each prisoner under consideration before the SLC. The SLC shall make unanimous recommendations. However, in case of dissent, the majority view shall prevail and will be deemed to be the decision of the SLC. If equal number of members are of opposing views, the decision of the Chairman will be final.
- (3) While considering the case of premature release of a particular prisoner, the SLC shall keep in view the guidelines issued by the Government in this regard. The paramount consideration before the SLC being the welfare of the prisoner and the society at large. The SLC shall take into account the circumstances in which the offence was committed by the prisoner and whether he/she has the propensity to commit similar or other offences again.
- (4) Rejection of the case of a prisoner for premature release on one or more occasions by the SLC will not be a bar for its reconsideration. However, the reconsideration of the case of a convict, rejected once, shall be made only after a period of six months, or as specified by the SLC but not more than one year from the date of its last consideration. A fresh report from the Superintendent will be necessary for such reconsideration.
- (5) It is prescribed that rejection of the case of a prisoner of premature release shall be based on sound reasons conforming to the guidelines issued by the Government in this regard. The prisoner who affected shall be intimated about the rejection of the case by the SLC, in writing by the Superintendent of Sansodhanagar.
- (6) The recommendation of SLC shall be placed before the Government without any delay for consideration. The Chief Minister or Executive Head of the State may either accept the recommendation of the SLC or reject the same on the grounds to be stated or may ask the SLC to reconsider a particular case. The decision of the Government shall be communicated to the concerned prisoner and in case the Chief Minister or Executive Head of the State has ordered for his premature release, the prisoner shall be released forthwith, with or without conditions, as prescribed in the guidelines issued by the Government in this regard.

526. MONITORING OF CASES

A computerised record of all the prisoners serving sentence in the Sansodhanagars, for a follow up of their cases, is extremely desirable in every Sansodhanagar as well as at the Sansodhanagar Headquarters and at the Home or Sansodhanagar Department of the Government. The monitoring system shall be based on the following guidelines :

- (1) There shall be a single file system for the case of every prisoner. Such files shall be maintained at the Sansodhanagar institution ;

- (2) This file will have a complete record of information regarding the consideration of a prisoner's premature release on any grounds on previous occasions and the date of reconsideration of the case;
- (3) Only one ground for a prisoner's premature release shall be considered at a time ;
- (4) Full record of information regarding the stage of each prisoner's premature release shall be kept in a register prescribed for the purpose as well in computers ;
- (5) Monitoring of all cases shall be done every month at the Sansodhanagar level and every three months at Sansodhanagars Headquarter level ;

527. RECORD RELATING TO REVIEW OF SENTENCES AND PREMATURE RELEASE

Immediately on admission of a life convict, eligible for being considered for premature release, the Superintendent of the institution shall collect copy of the judgment in his/her case from the court and open a file. This file shall contain :

- (1) Copies of the judgments of the original court and the appellate court ;
- (2) A data sheet containing information, viz. name of the convict, his/her number, age at the time of the sentence, previous occupation, offences, sentences, date of sentence, sentencing court sentence undergone, unexpired sentence and remission earned ;
- (3) Report of the Superintendent giving particulars about the educational progress, performance at work and vocational training, interest in recreational and cultural activities, discipline, group adjustability, conduct, attitude towards society and family members, conduct during release on leave, need for an after-care programme, and the manner in which the convict proposes to resettle after his/her premature release ;
- (4) Medical report about the physical and mental condition of the prisoner, serious illness, if any, suffered by him/her and his/her fitness for premature release;
- (5) Rejection of his premature release case by the SLC on previous occasions, if any ;
- (6) Order of the Government ;
- (7) Bond furnished by the prisoner ;
- (8) Conditions of release duly signed by the prisoner.

528. PREMATURE RELEASE OF CONVICTS OTHER THAN LIFE CONVICTS

Premature release of convicts other than life convicts :-

- (1) Under Section 432 of the Cr.P.C., the Government may remit the sentence of any convict other than the life convict on case to case basis on the request of the convict. The procedure prescribed under Section 432 of Cr.P.C shall be adhered to while remitting such sentence ;
- (2) Under Section 433 of the Cr.P.C the Government may commute the sentence of any convict as prescribed subject to the provisions of section 433A of the of the Code of Criminal Procedure on case to case basis on the request of the convict or without the consent of the person.

529. PREMATURE RELEASE OF CONVICTS CONVICTED IN THE STATE OTHER THAN WHERE THEY ARE CONFINED

- (1) The case of premature release of convicts convicted in the State other than where they are confined shall be undertaken by the SLC of the State where the convict was convicted but the case shall be prepared and forwarded by the Superintendent of the Sansodhanagar where the convict is confined at the relevant time through the Head of the Sansodhanagar Department of the State.
- (2) The cases of convicts falling under the provisions of Section 435 Cr.P.C shall be processed by the State Government after consultation with the Central Government.