

Minutes Of The Meeting Dated 16-05-2021 Of The High Powered Committee
Meeting Formed By The Assam Government In Compliance Of The Guidelines Of
Hon'ble Supreme Court Of India

Members Present:

- i. Hon'ble Mr Justice N. Kotiswar Singh, Executive Chairman, ASLSA and Judge, Gauhati High Court..... Chairman.
- ii. Mr. M.S. Manivannan, Commissioner and Secretary, Home and Political Department, Assam.....Member
- iii. Mrs B. Sharma, IG(Prison), Assam.....Member

(In compliance to the direction of Hon'ble Supreme Court given in **SUO MOTU WRIT PETITION (C) NO. 1/2020** (order dated 23-03-2020) IN RE : CONTAGION OF COVID 19 VIRUS IN PRISON the HIGH POWERED COMMITTEE was formed in the State of Assam last year.)

The Meeting of the High Powered Committee was held via Goggle Meet. The Member Secretary and Deputy Secretary of ASLSA, Assam were also present in the meeting through video conferencing.

Pursuance to the resolutions taken by the High Powered Committee in the meeting held on 12-05-2021, the recommendations made by the UTRC in the districts of Assam were placed before the Committee. The Members of the High Power Committee under the Chairmanship of Hon'ble Mr Justice N Kotiswar Singh, Judge, Gauhati High Court and Executive Chairman, Assam State Legal Services Authority, Guwahati discussed the recommendations placed at length,

After threadbare discussion on the following subjects, the meeting resolved thus:

I. RELEASE OF UTPs WHO WERE GRANTED BAIL BY COURT ALREADY, BUT UNABLE TO FURNISH SURETY/BAIL BOND

The Members of the High Power Committee resolved to approve the recommendations made by the Under Trial Review Committees for release of the UTPs who were granted bail by the Court already, but were languishing in Jail for not being able to furnish the same, on P.R. bond, subject to any of the conditions, if applicable as herein mentioned below.

II. RELEASE OF UTPs ACCUSED FOR COMPOUNDABLE OFFENCES

The Committee Members resolved to approve the recommendations made by the some of the Under Trial Review Committees for release of UTPs who are accused of Compoundable offences, on P.R. bond/bail bond, subject to any of the conditions, if applicable as mentioned herein below.

The UTRC which have not made any specific recommendation are directed to look into the aspect immediately, as they are the appropriate authority to assess the cases based upon local conditions.

III. RELEASE OF UTPs WHO ARE ACCUSED OF OFFENCE PUNISHABLE FOR LESS THAN SEVEN YEARS

The Committee Members resolved to approve the list of the UTPs recommended by the Under Trial Review Committees for release on bail/PR bonds, subject to any of the conditions, if applicable as mentioned herein below.

CONDITIONS APPLICABLE TO THE ACCUSED RELEASED UNDER CATEGORY I TO III AS SPECIFIED ABOVE

- i. In the event of the UTP being accused of offences punishable with imprisonment for more than seven years, then the concerned Trial Magistrate/Elaka Magistrate has to re-consider such recommendations keeping in view the gravity of the alleged offence and the merits of the case on the basis of the alleged facts and other factors, as per law.
- ii. In the event of, the UTP being accused who allegedly have committed an offence punishable u/s 498-A IPC, then at the time of release, such UTP, must furnish an undertaking that he shall not commit an offence of similar nature of which he is accused, and will not indulge in any aggressive act towards the victim/or any member of the family and any violation of such undertaking given will render such bail granted liable to be recalled.
- iii. If the UTP who is recommended to be released is a resident of another district (other than immediate neighbouring district), bail will not be granted as it would entail long journey which is to be avoided in this pandemic period.
- iv. In all cases the address of the UTPs recommended to be released is to be ascertained to ensure their future appearance.

IV. RELEASE OF CONVICTS ON PAROLE

Committee Members resolved to approve the recommendations made by the Under Trial Review Committee for release of convicts on parole, subject to following conditions,

- a. The inmates who were released on parole during the first wave of the pandemic in accordance with the guidelines of HPC following the directions of Hon'ble Supreme Court in Suo Moto W.P. (C) 01/2020 and returned later on to be released again on parole for further period of 90 days in consultation with the Home department of Government of Assam.
- b. The Committee resolved to provisionally allow the recommendations made by the UTRC for release of the convicts who do not fall under the above category on parole, subject to the approval of the State Government, for a time duration of two months, on condition that such convicts would report to the nearest Police Station every forth night and the O/C concerned Police Station will communicate the same with the O/C of the concerned Police Station under whose local jurisdiction the case was registered in which the convict was sentenced, (if the nearest and such concerned Police Station are different).
- c. After a period of two months, the convicts so released will report back to the concerned jail authority for observing the formalities and further direction, if the sentence period is not over by then.
- d. If the convict who is recommended to be released is a resident of another district (other than immediate neighbouring district), bail will not be granted as it would entail long journey which is to be avoided in this pandemic period.

V. RELEASE OF THE INMATES WHO WERE ALLOWED TO BE RELEASED TEMPORARILY LAST YEAR IN VIEW OF ORDER IN SMWPC 1/2020

The High Power Committee has already directed the IG, Prison, as per resolution taken in the meeting dated 12.5.2021 in pursuance of the direction of the Hon'ble Supreme Court in Suo moto WP (C) 1/2020, to issue necessary instructions to the Jail Authorities to release the inmates again who were released last year with appropriate conditions as per recommendation of the High Power Committee made pursuant to the order in Suo moto WP (C) 1/2020.

VI. ADDITIONAL GUIDELINES AND CONDITIONS

The Committee Members further keeping in view of the nature of the alleged offences, and recommendations of the UTRC for release of accused falling under various categories, resolved to place additional guidelines and conditions so as to tide over any unforeseen situation which might arise due to the pandemic. The said additional guidelines and conditions are as follows:

1. The Police authority has to keep a vigil on the released inmates, who are alleged to have committed offences punishable under Section 498-A IPC.
2. DLSAs are to provide counselling and monitor the behaviour of such UTPs released and provide the report to UTRC for considering if the accused so released is entitled to remain on P.R. bond or his bond is to be cancelled for not keeping the undertaking that the accused gave while being released. DLSAs are to take necessary steps in this aspect.
3. On release of any accused under the recommendations of the UTRC, which is approved by the HPC as herein above mentioned, is to be allowed to go home only if found to be Covid negative. If such accused is tested positive, then immediately his medical needs are to be attended and to be released only after being tested negative.

WAY FORWARD

Hon'ble Chairman, appreciated the efforts put in by all the stakeholders to attend to the needs of the jail inmates in the present pandemic.

It has been brought on record of the High Power Committee that pursuant to the HPC meeting already held on 12-05-2021, the Government has already taken following steps

a) Commissioner & Secretary, Home and Political Department, Govt of Assam wrote a letter vide No. HMB 89/2020/ 221 dated Dispur the 13th May, 2021 to the Commissioner of Police and Superintendent of Police of all districts for issuing instruction to all the Officers-In-Charge of the police Stations under their respective jurisdiction, for strict compliance of the directions issued by Hon'ble Supreme Court in **Arnesh Kumar Vs State of Bihar**, quoting the relevant directions given in the said judgment.

b) Joint Secretary, Home and Political Department, Government of Assam wrote letter to I.G (Prison) vide No. HMB 89/2020/227 dated Dispur the 15th May, 2021 for taking necessary steps viz., i) release the inmates on parole for a period of 90 days immediately who were allowed to go on parole earlier vide HMB 89/2020/70 dt 16.4.2020, ii) take steps with UTRC of each district to collect list of inmates from jail eligible for release considering the local situation in respective district, iii) steps for antigen/RTPCR test for jail inmates, iv) separate quarantine and isolation space keep

new inmates and asymptomatic inmates, v) submit proposal to Assam State Disaster Management Authority to purchase of N95 Mask, sanitizers and other essential items for the inmates, and vi) issue instructions to Jail Superintendent to provide printed vaccination certificate to the jail inmates so as to ensure that the inmates can take second dose of vaccine on furnishing the same in his nearby vaccination centre in the event of being released from jail after the first dose.

c) Joint Secretary, Home and Political Department, Government of Assam wrote letter to Principal Secretary, Health and Family Welfare Department, Govt of Assam vide No. HMB 89/2020/228 dated Dispur the 15th May, 2021 for taking steps viz., i) to depute one doctor/team of doctors to visit the jails daily to meet the medical needs of the jail inmates, ii) take necessary steps to vaccinate the jail inmates and expedite the process, iii) ear mark the beds and ICUs in the civil hospital and GMCH for jail inmates and iv) make necessary arrangement for ensuring at least two oxygen cylinders are available in the jail to meet any emergency which might arise in the jail.

The IG, Prison informed the High Power Committee that in pursuance of the suggestion given by the High Power Committee, the health Department has already initiated works in the jail. As on today in 17 jails out of 31, vaccination process has been started. Oxygen cylinders have been also provided in 17 jails. Process for providing suggested facilities in the Jails is going on. Prison Department has arranged sufficient sanitizers in the Jails.

The office of the IG, Prison shall forward a fortnightly list of the inmates released on interim bail/PR bond and Parole to ASLSA for preparing a record for future. The DLSAs may collect such lists in respective districts from the jail authorities at district level and prepare a record of their own.

The Committee members resolved to discuss and review the compliance report in respects of the directions/instruction given vide the letters mentioned herein above in the next meeting which is to be scheduled to be held on 21st May

Further, the High Power Committee decided to sit again on tomorrow only to discuss the UTRC recommendations of the districts which have not sent the details of the inmates to be released. They are informed today to send the details immediately.

Justice N. Kotiswar Singh

(Chairman)

Mr. M.S. Manivannan,

(Member)

Mrs. B. Sharma

(Member)

