

असाधारण
EXTRAORDINARY

Daman 20th September, 2017, 29 Bhadra, 1939 (Saka)

सं. : 35
No.

सरकारी राजपत्र
OFFICIAL GAZETTE



सत्यमेव जयते
भारत सरकार
Government of India

संघ प्रदेश दमण एवं दीव प्रशासन

U.T. ADMINISTRATION OF DAMAN & DIU

प्राधिकरण द्वारा प्रकाशित
PUBLISHED BY AUTHORITY

U. T. ADMINISTRATION OF DAMAN & DIU,
HOME DEPARTMENT, SECRETARIAT,
MOTI DAMAN – 396 220

No. Home/Prisons(P.M.R.)Part-I/18/2017-18/1190

Dated : 20/09/2017

NOTIFICATION

Sub : Guidelines for premature release under the "14 Years Rule" of Prisoner serving life sentence.

In exercise of the power vested under section 432 of Criminal Procedure Code, 1973, the Administrator of Daman & Diu is hereby pleased to adopt the following guidelines for premature release of Prisoners of U.T. of Daman & Diu as specified/indicated Annexure-I & II.

- (1) These guidelines will be applicable from the date of issue of Notification and will supersede earlier Notification dated 18th July 2017. These guidelines will be applicable in the normal course to the convicts undergoing life sentence and those having good behavior while undergoing the sentence.
- (2) In case of life convicts covered under these guidelines, the process of review shall commence after completion of 12 years of actual imprisonment for review under "14 Years Rule" to which provisions of section 433-A of the Code of Criminal Procedure 1973 are applicable and after completion of eight years to which provisions of section 433-A of the code is not applicable. The Prisoners convicted for offences against Union Territory or in terrorist activities or organized crime or similar nature of activities will not be selected for open prison.

- (3) If there is a difference of opinion between the Union Territory Level Committee and the Inspector General of Prison, the Inspector General of Prison shall record the specific reasons in support of his recommendations.
- (4) The Union Territory of Daman & Diu reserves its right to remit any sentence to release the prisoners, only after undergoing imprisonment in excess for which there is no specific guideline as mentioned in the annexure.

The UT Level Committee (UTLC) shall consist of the following members for recommending premature release of life convicts in appropriate cases :

- | | | |
|----|---|------------------|
| 1. | Secretary (Home) | Chairman |
| 2. | Law Secretary Daman & Diu. | Member |
| 3. | Collector/I.G.(Prisons), Daman. | Member Secretary |
| 4. | IGP/Deputy Inspector General of Police, Daman & Diu | Member |
| 5. | Director Social Welfare, Daman & Diu | Member |

The procedure for processing the cases for consideration of the UT Level Committee will be as under:-

(i) **Procedure :**

For every life convict eligible for eventual consideration by the UTLC under the rules.

- (a) Every Superintendent of Sub Jail, in-charge of a prison shall intimate the case of a prisoners at least three months in advance of his/her becoming eligible for consideration for premature release as per the criteria laid down by the U.T. Administration in this behalf.
- (b) The Superintendent Sub Jail shall prepare a comprehensive not for each prisoner, giving his family and social background as per the record of the case, the offence for which he was convicted and sentenced, and the circumstance under which the offence was committed.
- (c) The Superintendent of Sub Jail shall reflect fully about the conduct and behavior of the prisoner in the prison during the period of his incarceration, and during his/her release on probation/leave, change in his/her behavioral/pattern and prison offence, if any committed by him/her and punishment awarded to him for such offences. A report shall also be made about his physical, 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 Sub Jail, whether he favours for the premature release of the prisoner or not. In either case, it shall be supported by adequate reasons.

- (d) The Superintendent of sub Jail shall make reference to the Sub Divisional police Officer of the district where the prisoner was ordinarily residing at the time of commission of the offence, for which he was convicted and sentenced or where he is likely to resettle after his release from the jail. However, in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, reference shall also be made to the sub Divisional Police Officer of the district in which the offence was committed. In either case, he shall forward a copy of the note prepared by him to enable the Sub Divisional Police Officer to express his views in regard to the desirability of the premature release of the prisoner.
- (e) On receipt of the reference, the concerned Sub Divisional Police Officer shall cause an inquiry to be made in the matter through senior Police Officer of appropriate rank and based on his own assessment shall make his recommendations. While making the recommendations the Sub Divisional Police Officer shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical ground apprehensions. In case, the Sub Divisional Police Officer is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and materials. He shall return the reference to the Superintendent of the concerned Sub jail not later than 30 days from the receipt of the reference.
- (f) The Superintendent of Sub Jail shall also make reference to the **Social Welfare Officer** and shall forward to him a copy of his note. On receipt of the reference, the Social Welfare Officer shall either hold or cause to be held an inquiry through Social Welfare Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoners for rehabilitation and leading a meaningful life as a good Citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reason/material. The Social Welfare Officer shall furnish his report/recommendations to the Superintendent of Sub Jail not later than 30 days from the receipt of the reference.
- (g) On receipt of the report/recommendations of the Sub Divisional Officer and **Social Welfare Officer**, the Superintendent of Sub Jail shall put up the case to the Inspector General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Inspector General of Prisons shall examine the case bearing in mind the report / recommendations of the Superintendent of Sub Jail, Sub Divisional Police Officer and the Social Welfare Officer and shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the General or Special guidelines laid down by the Government of the Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Court in the matter of premature release of prisoners.

(ii) **Periodicity of the Board's meeting.**

The UTLC shall meet at least once in three months at the UT Headquarter on a date to be notified to its members at least 10 days in advance by the Member Secretary. The notice of such a meeting shall be accompanied by the complete agenda.

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DATED : 20TH SEPTEMBER, 2017.

- (iii) The cases put forward to the UTLC 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 4 members and the UTLC shall not take any decisions when the quorum is not complete.
- (iv) The Chairman of the UTLC can convene a meeting of the committee more frequently, even at short notices, if necessary.

By Order and in the name of
Administrator of Daman & Diu

Sd/-
(Gurpreet Singh)
Deputy Secretary (Home)
Daman.

GUIDE LINES FOR PREMATURE RELEASE OF PRISONERS SENTENCED TO LIFE IMPRISONMENT OR TO DEATH PENALTY COMMUTED TO LIFE IMPRISONMENT

ANNEXURE - I

Cate gory	sub Cate gory	Categorization of crime	Period of imprisonment to be undergone including remission subject to a minimum of 14 years of actual imprisonment including set off period.
1.		OFFENCES RELATING TO CRIME BY WOMEN.	
	(a)	Where the convict has no previous criminal history and has committed the murder in an individual capacity in a moment of anger and without premeditation or under physical, mental provocation.	18 years
	(b)	Where the convict has committed the murder with premeditation or by a gang.	20 years
2.		OFFENCE RELATING TO CRIME AGAINST WOMEN AND MINORS.	
	(a)	Where the convict has no previous criminal history and committed the murder in an individual capacity in a moment of anger and without premeditation.	20 years
	(b)	Where the crime as mentioned above committed with premeditation	22 years
	(c)	Where the crime is committed with exceptional violence and or with brutality or death of victim due to burns.	26 years
	(d)	Murder with rape	28 years
3.		MURDERS ARISING OUT OF LAND DISPUTE, FAMILY FEUDS, FAMILY PRESTIGE AND SUPERSTITION.	

	(a)	If the offence is committed in individual capacity and without premeditation	20 years
	(b)	Crime committed as above with premeditation, either individually or by a gang.	22 years
4.		MURDERS FOR OTHER REASONS	
	(a)	Where a murder is committed without premeditation in an individual capacity and the person has no previous criminal history.	20 years
	(b)	Murder committed with premeditation, or a person having criminal history.	22 years
	(c)	Murder resulting from trade union activities and business rivalry.	22 years
	(d)	Murder committed by more than one person/group of persons.	24 years
	(e)	Murder committed with exceptional violence/brutality/kidnapping. Murder committed by dacoits and robbers in the act of committing dacoities and robberies. Murder committed by bootleggers, gamblers, flesh trader etc.	26 years
5.		MURDER FOR POLITICAL REASONS.	
	(a)	Murders arising out of political rivalry and political interest without premeditation.	24 years
	(b)	Murder arising out of political rivalry and political interest, with premeditation.	26 years
6.		MURDER FOR SERIOUS OFFENCES	
	(a)	Murder committed by Gangsters, Contract killers, Racketeers etc.	28 years
	(b)	Persons already convicted for life and is convicted again for murder.	30 years
	(c)	Convict awarded more than one life sentence and sentences running concurrently.	30 years

	(d)	Prisoners whose death sentence has been commuted to life imprisonment	30 years
7.		PUNISHMENT UNDER THE SPECIAL ACTS SUCH AS TADA, POTA, FOR MURDER.	
		Offences committed against the State /Offences committed by extremists/terrorist/organized crimes or similar nature of offences:-	
	(a)	Convict awarded one life sentence.	40 years
	(b)	Convict awarded two life sentence and sentences running concurrently.	50 years
	(c)	Convict awarded more than two life sentence and sentences running concurrently.	60 years
8.		Any other such offences which are of an exceptional/heinous nature and not specifically covered in above categories.	The Union Territory Administration of Daman & Diu Government will decide individual cases on merit.

ANNEXURE - II

PERSONS GUILTY OF OFFENCES NOT INVOLVING MURDER WHO ARE SENTENCED TO LIFE IMPRISONMENT WHERE SECTION 433 (A) OF CRPC IS NOT APPLICABLE.

Category No.	I.P.C. Section	Name of Offence	Period of Imprisonment to be undergone including remission subject to a minimum of 10 years of actual imprisonment including set off period.
1	304,304(a), 307	Persons guilty of homicides not amounting to murder, causing death by negligence, attempt to murder etc.	14 years
2	304(b)	Person guilty of causing death for Dowry.	20 years
3	311	Persons guilty under this section (Thugs)	14 years
4(a)	313,314	Persons guilty of causing miscarriage of unborn child without woman's consent or any such act which results in her death.	14 years
4(b)		In case such victim is minor.	16 years
5	326,329	Persons guilty of causing grievous hurt under these sections.	14 years
6	363,(A)(2)	Persons guilty of kidnapping for maiming	18 years
7(a)	364	Persons guilty of kidnapping for ransom.	16 years
7(b)	364	In such case victim is minor	18 years
8(a)	376	Persons guilty in Rape cases	18 years
8(b)	376	Where victim is minor	20 years
8(c)	376(1)	Rape on physically handicapped or mentally retarded girl, pregnant woman, gang rape or custodial rape.	22 years

9	388 to 400	Persons guilty of extortion, robbery, dacoity etc under these sections.	14 years
10	409	Persons guilty of criminal breach of trust under this section	14 years
11	412, 413	Person guilty of offences related to stolen property under these sections.	14 years
12	436, 438	Person guilty of mischief described under these section	14 years
13	449	Person guilty of house tress pass in order to commit offence punishable with death	20 years
14	459	Person guilty of causing grievous hurt whilst committing house-break or house tress pass	14 years
15	460	Person guilty of causing grievous hurt or death while committing of house-tress pass or house breaking	18 years
16	467,472 474,475 489A,489B 489D	Person guilty of forgery or counterfeit substance etc.	14 years
17	222,225	Persons guilty of offences described under these sections.	20 years
18	232,238 255	Offences relating to of coin and Government stamps, Counterfeiting Government Stamp	20 years
19		Offences against the U.T.	30 years
20		Offences by extremists/terrorists/organized crimes or similar nature of offences	40 years
21		Any other such offences which are not specifically covered in above categories	The Union Territory Administration of Daman & Diu Government will decide individual cases on merit.