

GOVERNMENT OF MEGHALAYA
DEPARTMENT OF PRISONS AND CORRECTIONAL SERVICES

No. PDS. 23/2021/Part/564

Dated: Shillong, the 31st January, 2025

NOTIFICATION

Whereas the Hon'ble Supreme Court, in various Orders passed in the case of Suo Moto Writ (Criminal) No. 4 of 2021 titled as In Re: Policy Strategy for Grant of Bail has directed all the States to frame/modify their policies for grant of remission or additional remission under Section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023 or Section 432 of the Code of Criminal Procedure, 1973, as may be applicable, in accordance with the Judgments and Orders passed by the Hon'ble Supreme Court from time to time to bring uniformity to the policies throughout the country; and

Whereas the Hon'ble Supreme Court in the Judgment of *Laxman Naskar versus Union of India* [Judgment dated 15.02.2000 in Writ Petition (Criminal) No. 64 of 1999] passed directions laying down certain norms and guidelines to be followed by the appropriate Government for grant of remission of sentence of convicts under Section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 432 of the Code of Criminal Procedure, 1973); and

Whereas the Hon'ble Supreme Court in the Judgment of *Sangeet & Anr. versus State of Haryana* [Judgment dated 20.11.2012 in Criminal Appeal No. 490-491 of 2011] passed directions laying down certain additional norms and guidelines to be followed by the appropriate Government for grant of remission of sentence of convicts under Section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 432 of the Code of Criminal Procedure, 1973); and

Whereas the Hon'ble Supreme Court in the Judgment of *Mafabhai Motibhai Sagar versus State of Gujarat* [Judgment dated 21.10.2024 in Criminal Appeal No. 2307 of 2024] passed further directions as to guidelines to be followed by the appropriate Government for grant of remission of sentence of convicts under Section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 432 of the Code of Criminal Procedure, 1973); and

Whereas, in the light of the various directions passed by the Hon'ble Supreme Court, the Government of Meghalaya has decided to consolidate all the guidelines and to bring into place a comprehensive and objective policy for grant of remission of sentence of convicts under Section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Therefore, the Governor of Meghalaya is pleased to notify the "**Remission Policy, 2025**" which shall come into force from the date of its publication in the Gazette of Meghalaya.

The Remission Policy, 2025 is as follows:

ELIGIBILITY OF CONVICTS:

The following categories of convicts who have consistently maintained overall good conduct in the prison throughout their incarceration and have not committed any offence while lodged in the prison and who do not fall in the categories of convicts who are not eligible for remission in the present policy, shall be eligible for consideration of remission and premature release:

A. Convicts with sentence of life imprisonment or death sentence commuted to life imprisonment or convicted for an offence for which a sentence of death or life imprisonment may be awarded:

- a) Convicts with terminal illness certified by the Medical Board constituted for the purpose by the Government, irrespective of age and period undergone.
- b) All other convicts under this category, if they have completed at least 14 (fourteen) years of the sentence (without counting the period of remission earned under the applicable rules or the Meghalaya Prisons Manual, 2022).

B. All other convicts not falling in category 'A' above, i.e. with sentence less than life imprisonment and convicted for an offence for which sentence of death or life imprisonment may not be awarded:

- a) Convicts with terminal illness certified by the Medical Board constituted for the purpose by the Government, irrespective of age and period undergone.
- b) Physically disabled convicts with 70% or more disability, duly certified by a Medical Board constituted by the State Government, who have completed at least 50% of the sentence awarded or 12 (twelve) years of the sentence, whichever is earlier, irrespective

of their age (without counting the period of remission earned under the applicable rules or the Meghalaya Prisons Manual, 2022).

- c) Female or Transgender convicts of more than 55 years of age, who have completed at least $2/3^{\text{rd}}$ of the sentence awarded or 12 (twelve) years of the sentence, whichever is earlier, (without counting the period of remission earned under the applicable rules or the Meghalaya Prisons Manual, 2022).
- d) Male convicts of more than 60 years of age, who have completed at least $2/3^{\text{rd}}$ of the sentence awarded or 12 (twelve) years of the sentence, whichever is earlier, (without counting the period of remission earned under the applicable rules or the Meghalaya Prisons Manual, 2022).
- e) All other convicts of this category who are not fulfilling the age criteria if they have completed at least $3/4^{\text{th}}$ of the sentence awarded or 14 (fourteen) years of the sentence, whichever is earlier, (without counting the period of remission earned under the applicable rules or the Meghalaya Prisons Manual, 2022).

C. The following categories of convicts **SHALL NOT BE ELIGIBLE** for grant of remission under this policy:

- a) Convicts who are convicted for murder of two or more persons in one incident or in separate incidents.
- b) Convicts who are convicted of murder in mob lynching as prescribed under Sub-Section 2 of Section 103 of the Bharatiya Nyaya Sanhita, 2023.
- c) Convicts against whom any case of murder and/or rape or gang-rape is pending at any stage, whether at the investigation stage or trial stage, till he/she is acquitted in all such other cases.
- d) Convicts of rape and/or murder cases who are convicted with a sentence which is not a life sentence.
- e) Convicts for offence/s under Sections 3 to 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
- f) Convicts convicted under the Terrorist and Disruptive Activities (Prevention) Act, 1985; The Prevention of Terrorism Act, 2022; Unlawful Activities (Prevention) Act, 1967; The Explosive Substances Act, 1908; The National Securities Act, 1982; Official Secrets Act, 1923; Anti Hijacking Act, 2016; the Arms Act, 1959; Section 113 of the Bharatiya Nyaya Sanhita, 2023.

- g) Convicts for offences under Section 489 (A to E) of the India Penal Code, 1860 or Sections 178 to 182 of the Bharatiya Nyaya Sanhita (BNS), 2023.
- h) Convicts for offences of Human Trafficking under the Immoral Traffic (Prevention) Act, 1956.
- i) Convicts for offences under the Narcotics Drugs and Psychotropic Substances Act, 1985.
- j) Convicts for offences under the Weapons of Mass Destruction and their Delivery Systems (Prevention of Unlawful Activities) Act, 2005.
- k) Convicts of Offences under Chapter VI of the Indian Penal Code, 1860 or Sections 147 to 158 of the Bharatiya Nyaya Sanhita (BNS), 2023.
- l) Convicts for offences under the Drugs and Cosmetics Act, 1940.
- m) Convicts for offences under the Prevention of Food Adulteration Act, 1954.
- n) Convicts for offences under the Essential Commodities Act, 1955.
- o) Convicts for offences under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.
- p) Convicts who have been found to be absconders during any period of parole/ furlough, bail granted to them, for a period of more than 7 days from the stipulated period.
- q) Convicts who are habitual offenders, notorious criminals, dangerous and involved in gangster activities and organized crime or inter-state criminal activity or offences having international ramifications.
- r) Convicts for offences under Sections 392 to 402 of the Indian Penal Code, 1908 or Sections 309 to 313 of the Bharatiya Nyaya Sanhita (BNS), 2023.
- s) Convicts belonging to any banned organization by the State Government or the Government of India.
- t) Convicts who have been granted conditional remission previously but have been re-arrested and sent back to prison to undergo the remaining sentence because of violation of conditions of remission/pre-mature release or failure to fulfill conditions of grant of remission/pre-mature release.
- u) Convicts of offences which have been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946.
- v) Convicts of offences which involve misappropriation of property or damage or destruction of property belonging to the Government.

- w) Convicts who were employees of the Government and convicted for offences under the Prevention of Corruption Act, 1988 in connection with their services under the Government.
- x) Convicts of offences to which the executive authority of the State Government does not extend and where the Government of India is the appropriate Government for considering such requests.

PROCEDURE TO BE FOLLOWED:

For the exercise of powers of grant of remission/premature release of a convict under Section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023 or Section 432 of the Code of Criminal Procedure, 1973, as may be applicable, the following procedure shall be followed:

1. Convicts eligible for grant of remission/pre-mature release under the above policy shall be informed in writing by the Superintendent of the concerned District Prison & Correctional Home of their eligibility and the acknowledgment of the convict is to be taken on such intimation. The record of all such intimation to eligible convicts shall be maintained by the prison authorities till remission is granted or rejected by the competent authority.
2. Upon receiving such intimation, the convict shall have to apply for remission/pre-mature release to the concerned Superintendent of the prison.
3. The Superintendent of the prison shall, within 15 days of receipt of such application from an eligible convict, forward the application to the Department of Prisons & Correctional Services, Government of Meghalaya, through the Director/Inspector General of Prisons & Correctional Services, Meghalaya, along with his report indicating, inter-alia, the following points:
 - Conduct of the convict prisoner during the period of incarceration.
 - Details of pendency of any other case against the convict prisoner either at the investigation stage or the trial stage.
 - Period of absconding, if any, during the incarceration or jumping of bail during the period of investigation or trial.
 - Report of the psychologist of the prison (visiting or permanent) on the mental state and behaviour of the convict prisoner.

- Any other information which the Superintendent of the prison believes to have any effect on the decision of remission/pre-mature release of the convict prisoner.
4. Upon receipt of an application for grant of remission/pre-mature release, along with the report of the Superintendent of the prison, the Department of Prisons & Correctional Services shall scrutinize the application for eligibility of the applicant and if found ineligible under the policy, shall inform the Director/Inspector General of Prisons & Correctional Services, Meghalaya, forthwith with reasons to be recorded, in writing.
 5. If the Department finds that the applicant convict is eligible for grant of remission/pre-mature release under this policy, it shall forward the application with all the relevant records to the Presiding Officer of the Convicting Court or the Confirming Court and obtain the opinion of that Court.
 6. The Presiding Officer of the Convicting Court or the Confirming Court shall render their opinion on the application of the applicant convict with reasons to be recorded in writing, for the opinion given.
 7. Upon receipt of the opinion of the Convicting Court or the Confirming Court, the Department should place such opinion and all other relevant records before the Sentence Review Committee, which shall consider all the materials available on record, including the opinion of the Convicting Court or the Confirming Court and the Superintendent of the prison. The Sentence Review Committee shall take a decision in accordance with the guidelines laid down by the Hon'ble Supreme Court from time to time, on the issue of grant of remission to convicts.
 8. If the Sentence Review Committee decides to reject the application for grant of remission/premature release of a convict, it shall record all the reasons in writing for such rejection and the order of the Sentence Review Committee shall be served on the applicant convict within 15 days of passing of such order with intimation that he/she has the right to challenge the order of rejection before the competent Court of law. A copy of the rejection order shall also be served to the concerned District Legal Services Authority (DLSA), within 15 days of passing of such order, for providing legal assistance to the applicant convict, if required.
 9. If the Sentence Review Committee decides to accept the application for grant of remission/pre-mature release of a convict, its recommendation along with conditions to be imposed, if any, for grant of remission/pre-mature release of the convict, shall be taken up by the State Government within a period of 15 (fifteen) days.

10. The State Government shall take a decision on the recommendation of the Sentence Review Committee within a period of 30 (thirty) days from the date on which such recommendation was communicated, by considering all the relevant material.
11. If the State Government decides to reject the application for grant of remission/pre-mature release of a convict, it shall record all the reasons in writing for such rejection and the order of the State Government shall be served on the applicant convict within 15 days of passing of such order with intimation that she/he has the right to challenge the order of rejection before the competent Court of law. A copy of the rejection order shall also be served to the concerned District Legal Services Authority (DLSA), within 15 days of passing of such order, for providing legal assistance to the applicant convict, if required.
12. If the grant of remission/pre-mature release to the applicant convict is conditional and the convict fails to oblige and fulfill the conditions or if there are violations of the conditions by the convict, the Department of Prisons & Correctional Services shall, upon receipt of such information, cancel the grant of remission/pre-mature release and inform the Home (Police) Department for re-arrest of the convict who shall be sent to prison for serving the remaining sentence. In such a case, the period during which the convict was on remission shall not be counted for the purpose of calculating the sentence undergone by the convict.
13. An eligible applicant, whose application for grant of remission/pre-mature release has been rejected by the Sentence Review Committee or the State Government may make another application, after the expiry of one year from the passing of the rejection order.

Sd/-

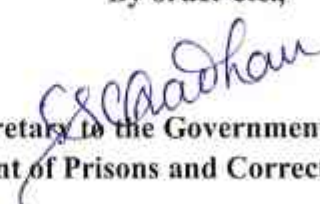
(Shri W. Nongsiej, I.A.S.)

Secretary to the Government of Meghalaya
Department of Prisons and Correctional Services

Copy to:

1. The P.S. to Chief Minister, Government of Meghalaya, for kind information of the Hon'ble Chief Minister.
2. The P.S. to the Deputy Chief Minister in-charge of the Department of Prisons and Correctional Services, Government of Meghalaya, for kind information of the Hon'ble Deputy Chief Minister.
3. The P.S. to the Chief Secretary to the Government of Meghalaya, for kind information of the Chief Secretary.
4. The P.A. to the Secretary to the Government of Meghalaya, Home (Political) Department, for kind information of the Secretary.
5. The P.A. to the Secretary to the Government of Meghalaya, Home (Police) Department, for kind information of the Secretary.
6. The P.A. to the Secretary to the Government of Meghalaya, Law Department, for kind information of the Secretary.
7. The Director General of Police, Meghalaya, for information.
- ✓ 8. The State Informatics Officer, National Informatics Centre, Meghalaya, with a request to upload a copy of this notification in the Meghalaya State Portal.
9. The Director of Printing and Stationery, Meghalaya, with a request to publish this notification in the Official Gazette of Meghalaya.
10. The Inspector General of Prisons & Correctional Services, Meghalaya, for information and necessary action.
11. The Member Secretary, Meghalaya State Legal Services Authority, for information.
12. The Member Secretary, District Legal Services Authority, East Khasi Hills / West Khasi Hills / South-West Khasi Hills / Eastern West Khasi Hills / East Jaintia Hills / West Jaintia Hills / Ri-Bhoi / West Garo Hills / East Garo Hills / North Garo Hills / South Garo Hills / South-West Garo Hills Districts, for information and necessary action.
13. The Superintendent, District Prison & Correctional Home, Shillong / Jowai / Nongpoh / Tura / Williamnagar, for information and necessary action.
14. Office copy.

By order etc.,


**Under Secretary to the Government of Meghalaya
Department of Prisons and Correctional Services**