

PREMATURE RELEASE POLICY

Government of Punjab Department of Home Affairs & Justice (I-10mc97 Branch) Notification Dated . 14 December, 2017 N02/183/S9-IH7/1126030/1 In pursuance of the policy published vide notification No. 2/183/89-197/176 dated April, 2017 of the Government of Punjab Home Affairs and Justice Department, The Governor of Punjab is pleased to frame the following policy according to which the Prisoners or the Punjab Prisoners will be able to take the benefit of premature release. Policy 1. 2

3. This policy will be called Premature Release Policy 2017 for life convicts. (ii) This policy will come into effect with the date of publication in the Government gazette. In this policy unless context requires the others- Definitions:- (a) (b) (d) (e) (g) "Premature Release policy" means release which if only in the cases of those life time prisoners (those who have been convicted by the Criminal Court established in Punjab) to be considered in those cases; "Secretary" means Additional Chief Secretary/ Principal Secretary Home Affairs and Justice Department, Punjab; "Government Employee" means such person as "fined in the section 21 of I.P.C. 1860 (Indian Penal Code) (Central Act No. 45 of 1860); "Section" means section of this policy; "Elected representative" means such person who has been elected legally in the Central Government or State Government; "Adult" means the person who is above the age 18 years; and "Medical Board" means that Medical Board which has been constituted by the concerned jail Superintendent through Civil Surgeon under the sub clause 1 of clause 5 and 6 of the policy from time to time; "Departmental Head" means Director General /Additional Director General, Jails. Petition for premature release:- For the premature release the prisoner will explain the detailed reasons and keeping in view the reasons his petition will be considered the concerned jail Superintendent may send to Director General/ Jails or Secretary. If the prisoner sends his application regarding premature release directly to the Secretary then he will send the said petition within 15 days to the departmental head to report after consideration, The departmental head will send this petition within 15 days to the concerned Jail Superintendent for report. The concerned Jail Superintendent regarding this petition will send his comments within 30 days to the departmental head for further action. The said petition will be sent to Secretary by the departmental head after consideration at his own level so that decision can be taken regarding premature release at competent level. The Government will consider only those petitions received from Departmental Head, where the Govt. feels satisfied that the criminal will not do any crime after premature release and will keep the promise for maintaining peace. He, will not commit the same crime again under any such circumstances as he had committed earlier in the same circumstances. Regarding sending the case of earlier release of the prisoner, if the reports of previous five paroles are fine, then there is no need to get the reports from District Magistrate, Senior Superintendent of Police & concerned Sarpanch. Only concerned Superintendent Jail will certify that the 1995 five parole reports of the prisoner are correct and during the parole/furlough period no adverse report was received from the District Magistrate or Senior Superintendent of Police about the prisoner. In case there is any adverse report against the prisoner, the case of premature release will be considered only after receipt of the report of the District Magistrate. Under this policy only the cases of Premature release will be considered and under this policy no prisoner has the fundamental right of premature release. Although, If in any case a prisoner fulfils all the conditions for premature release, but so long as the competent authority is not satisfied about the record of the prisoner received from the lower authorities that the Prisoner is eligible for premature release and that with his release there will be no adverse effect on the public, until then, no prisoner can become the beneficiary of this policy. Crime, term of Prison spent and term of prison to be spent (i). The prisoners, who have submitted their petition to take the benefit under this policy, their cases will be considered as per tables given below:- the have 'o' death but death has been received, 10 Table (For Petitions under the Article 161 of Indian Constitution) 10 he new crime the been the Ide Actual 'prisoners: 12 9 0 the who have Commit:" heinous crime. but that h' not this been convicted Remission on term of imprisonment and With remission 10 12 Other life prisoners Remission of sentence undertone with remission 14 2) i) In the above given table : The punishment given in the column 'B' the Heinous crime means the crimes which come under the following sections of Indian Penal Code 1860, such as :- The crime committed under section 302 and 347; The crime committed under section 302 and 376; The crime committed under section 396; v) vi) vii) viii) (G) i) v) vi) Crime committed under section 302 and also the crime committed under the Extremist and disruptive

Activities (Prevention Act 1987); Crimes committed under section 302 or scheduled castes and Scheduled Tribes Prevention of Atrocities) Act, 1989 (central Act No 33 of 1989) or the unlawful activities (Prevention) Act 1967 (Central Act No. 37 of 1989) upon the scheduled castes and scheduled Tribes; The crimes committed under section 302 (the case in which order has been given by the court); The crime committed under section 302 in which the victim may be child which is below the age of 14 years); and Any crime related with the above mentioned crimes in which section 120-3 is also imposed. In the above mentioned column 'D' the meaning of the punishment of heinous crimes is :- The crimes committed under section 304 (B); The crimes committed under section 304 & 347; The crimes committed under section 304 & 376; The crimes committed under section 304, terrorists Disruptive Activities (Prevention) Act 1987, or Illegal Activities (Prevention) Act, 1967; The crimes committed under section 304 where the victim is a child & below the age of 14 years; In addition to the above mentioned crimes any other crime in which section 120-B is also imposed. Table 2 (The Petitions under Sections 432,433 of cr. P.c.1973) Category The criminals who have been sentenced to death but death sentence has been commuted to life imprisonment Actual Remission Received/ Imp r'v'omuent the criminal Who have murdered somebody "ut it committed heinous crime & Considered heinous this the convict has seven and he the life imprisonment convicted for imprisonment Actual Remission Remission. Undergone received/ unC2rEone imprisonment isonment Impt under some the have heinous crime. but in that crime he has not murdered anybody and 'Or this he has been convicted Actual Remission Under One received/ tnpnsaament Imprisonment undertone With remission 14 22 Other life prisoners Actual Remission Undertone Imprisonment Imgrison.ment Adult Women / minor und With 20 20 14 With 14 22 eone With 20 20 8-1/2 6 undertone With remission 14 10 Note :- For the purpose of this table crimes mentioned in column 'E' & '3' of this table will be the same as mentioned in sub para (2) of table 1. The cases regarding release of mentally ill prisoners (i) The life prisoners who are mentally unfit and those who have completed 1 years of actual imprisonment or with remission and they are not able to apply for premature release, their physical & mental examination will be conducted by the medical board. After receiving the report of medical board the concerned Superintendent, Jail Will prepare the complete proposal for premature release of the prisoner & will send the same to the departmental head. The concerned superintendent Jail will send such proposal within two months after the completion of ten years imprisonment and the head office, (iii) 5. after receiving such considering it, will send the same to the Government along with its recommendations. If according to the report of Jail Superintendent there is not any family member of such is nobody to apply {for such person's prisoner or if it is untraceable or their premature release then he will surely mention on this fact in his report. the proposal to the head office, will The concerned Jail Superintendent before sending also ensure that the family members of such prisoner have done every possible effort for his premature release. After receiving such type of proposal from Superintendent Jail the departmental head will send the case within one month to the Secretary along with his recommendations. The prisoners suffering from deadly/Terminally illness: (i) The prisoners suffering from deadly disease/ Terminally illness which cannot be cured (i.e. suffering from cancer, advanced disease of heart, failure of both the kidneys, full blown AIDS etc. and are at the last stage of life), in such cases before the consideration the concerned Jail Superintendent will get the report of convicted prisoner from the medical board & will prepare the report regarding the medical condition of the prisoner. It will be compulsory for the board to report regarding this within 15 days. If the State Level Board recommends that the prisoner is actually suffering from deadly disease/ Terminally illness then the case of that prisoner will be sent immediately for premature release to be considered under Article.161 of Indian Constitution. (ii) If the members of state level medical board mentioned in Para 5 (i) or Para 6 (i) have difference of opinion in the views expressed or any clarification is required then Director, Health & Family Welfare Department will refer such case to Director, Post Graduate Institute of Medical Education and Research, Chandigarh PGI) who will give report of PGI within 30 days and the report received from Director PGI will be considered as final. On the basis of this final medical report, concerned Superintendent Jail will prepare a complete proposal and will report it with his recommendation to the departmental head. After considering the received reports, the departmental head will send the case with his comments within fifteen days to the Secretary for further action. (iii) The Secretary, after considering the case, will send case within 15 days for the decision to receive orders at the competent level. Heinous type of cases for premature release : In the following heinous cases, premature release will

not be considered under any condition before undergoing the imprisonment of 18 or 20 years :- (i) The crime is related regarding any elected representative murdered during his tenure; and (ii) The crime is related with the murder of any official while he is discharging his duties. The cases in which premature release is not allowed :- In the following cases there will be no remission, special exemption or remittal the prisoner will not be released prematurely: (iii) (iv) (v) (vi) the prisoners who have been convicted under sections 37, 376 A, 376 B, 376 C, 376 D & 377 of IPC 1860 for molestation of girls/women; the prisoners who have committed multiple murders; the prisoners convicted under NPS Act 1985 the prisoners under Protection of Children from Sexual Offence Act; 2012 those who have committed crime with violence; the prisoners those who cannot be released before time keeping in view the security of common people; and the prisoners covered under section 495 of the Code of Criminal Procedure, 1973. 9

10. Action on the petition of prisoner:- On receiving petition from any prisoner regarding premature release the concerned Superintendent Jail within fifteen days will prepare the complete report regarding his conduct during the previous 5 years in the jail and send the complete report in the prescribed Form along with his comments to the departmental head for further action. In this report he will mention his comments clearly under his signatures and complete record regarding remittal and parole will be sent with the report. Action on receiving the application of prisoners through District Magistrate:- (i) The proposal sent by the concerned Superintendent Jail for verification will be sent by the concerned District Magistrate within seven days to the concerned Commissioner of Police or SSP (whosoever is there) to send, the report of the prisoner's conduct. Within fifteen days they will send the report back to the District Magistrate. On receiving this report the District Magistrate, within seven days, will send the police verification report of prisoner and the situation in which crime was committed and oath of affirmation taken by the prisoner to the concerned Superintendent Jail who will ensure to send all these documents to the departmental head for further action. All the concerned authorities i.e. District Magistrate, Police Commissioner or SSP, whosoever it may be, will ensure to send their reports within stipulated time. (ii) District Magistrate while giving his comments will keep in view parole leave of prisoner during the last five years, regarding his conduct the report of Municipal Corporation, Municipal Council, Municipal Committee, concerned Municipal Council of Nagar Panchayat or Representative of the concerned Panchayat of the residential area will be kept in mind for the premature release of the prisoner

11. Regarding the case of prisoners of other states:- Whenever the prisoner submitting his petition for premature release is concerned with the other state in such cases the case will be sent to the concerned District Magistrate of the prisoner's state so that unnecessary delay may be avoided in the disposal of the petition of such prisoners. To receive this report as early as possible the departmental head and concerned Superintendent Jail will personally take up the issue with the concerned Magistrate so that verification report may be received as early as possible

12. On rejection of Prisoners application :- (In case of rejection of prisoner's application regarding premature release the application of premature release will not be entertained again at least for one year. This condition will not be applicable in those cases, where any court, Hon'ble Chief Minister or Hon'ble Governor has ordered premature release under Article 161 of Indian Constitution or sections 432 and 433 of Criminal Procedure Code 1973)

13. Basis of Policy:- This policy will be deemed considered per under para 428 to 455 of Chapter-14 of Punjab Jail Manual

14. Benefits under court cases :- As per the decision given the Hon'ble Supreme Court in the case of **State of Haryana Vs Jagdish Sharma (criminal appeal no.566 of 2010)** the cases of prisoners regarding premature release will be considered under that policy which is more beneficial for the prisoner. Under this policy while considering the cases of life prisoners the liberal policy will be adopted. The cases in which the decision of the court is the favour of prisoner, that prisoner will be given the benefit. Dated: 13-12-2017 Chandigarh Nirmaljit Singh Kalsi IAS Additional Chief Secretary, Government of Punjab [Department of Home Affairs & Justice.