

MOST IMPORTANT

**V-17013/20/2024-PR
Government of India
Ministry of Home Affairs**

**Women Safety Division, 2nd Floor
Major Dhyan Chand National Stadium
India Gate, New Delhi-110001**

January 1, 2025

To

- 1. The Chief Secretaries of all States and UTs**
- 2. The DG/IG of Prisons and Correctional Services of all States and UTs**

Sub: Implementation of the provisions of Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the State Prison authorities for providing relief to undertrial prisoners.

Sir/Madam,

As you are aware, Section 479 (1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) provides that if a person, during investigation, enquiry or trial under an offence (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law), has undergone detention for a period of **one-half of the maximum period of imprisonment** specified for that offence, he shall be released by the Court on bail. In case of **first-time offenders**, such prisoners shall be released on bond by the Court, if they have undergone detention for a period extending up to **one-third of the maximum period** of imprisonment for that offence. Further, Section 479 (3) of the BNSS casts a specific responsibility on the Superintendent of the Prison to make an application to the concerned Court for release of aforementioned undertrial prisoners on bail/bond.

2. The Ministry of Home Affairs had issued an advisory to the States and Union Territories (UTs) in this regard on 16.10.2024 (copy enclosed) and had requested them to provide the benefit of the provisions of Section 479 of BNSS to all eligible prisoners and have their bail applications filed in the Court accordingly.

3. On the occasion of Constitution Day i.e. 26th November, the Ministry of Home Affairs had launched a Special Campaign under which all the States and Union Territories were requested vide this Ministry's letter of even number dated 24.10.2024 to identify eligible prisoners under the provisions of the Section 479 of BNSS and move their applications to the concerned Courts for their release on bail/bond. Hon'ble Home Minister had also addressed a DO letter to the Chief Ministers of all States/UTs in this regard. The States and UTs had actively participated in this exercise and had furnished the details of the number of prisoners who benefitted from the provisions of Section 479 of BNSS upto 26.11.2024.

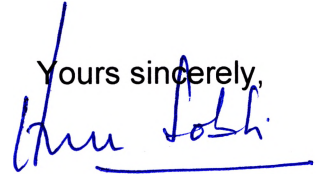
4. However, it may be noted that the above was not a one-time exercise and the States/UTs need to take advantage of the provisions of Section 479 of BNSS and provide the benefit of the same to all eligible prisoners **on a continuous basis**.

5. The States and UTs are requested to provide details, as in the attached proforma, for the period **27.11.2024 to 31.12.2024**, on urgent basis, whereafter a monthly report, even a NIL report, is to be provided to this Ministry in the prescribed proforma, starting from **1.1.2025**.

6. It is reiterated that the provisions of Section 479 of BNSS can go a long way in mitigating the situation of long detention faced by undertrial prisoners and can also address the issue of overcrowding in prisons. It is, therefore, expected that all States and UTs will cooperate in the matter and will advise the concerned prison authorities for taking necessary action in the matter and to furnish the desired information to MHA in a timely manner.

Encl.: As above.

Yours sincerely,



(Arun Sobti)

Director (PR & ATC)

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PROFORMA

Status of Implementation of Section 479 of the BNSS, 2023

S. No.	State/UT	First Time Undertrial Prisoners (UTPs)			Other Undertrial Prisoners		
		No. of first time UTPs who have served 1/3rd of the maximum sentence	No. of applications preferred in the Court by Jail Superintendent	No. of UTPs released on bond	No. of UTPs who have completed 1/2 of the maximum sentence	No. of applications preferred in the Court by Jail Superintendent	No. of UTPs released on bail

MOST IMMEDIATE
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No. 17013/20/2024-PR
Government of India
Ministry of Home Affairs

Women Safety Division, 2nd Floor
Major Dhyan Chand National Stadium
India Gate, New Delhi-110001
October 16, 2024

To

1. The Chief Secretaries of all States and UTs
2. DG/IG Prisons and Correctional Services of all States and UTs

**Sub: Implementation of the provisions of Section 479 of 'The Bharatiya
Nagarik Suraksha Sanhita, 2023' (BNSS) by State Prison authorities
for providing relief to undertrial prisoners.**

Sir/Madam,

As you are aware, overcrowding in prisons, especially the issue of large number of undertrial prisoners, has been a matter of concern for the Government of India. For addressing the issue of long detention of undertrial prisoners and the hardship faced by them, the Ministry of Home Affairs has been taking various progressive steps from time to time, including grant of financial aid to the States and Union Territories (UTs) for providing relief to such prisoners in seeking release from prisons.

2. In context of the above, it is stated that Section 479 (1) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which has come into force with effect from 1st July 2024, provides that 'Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) **undergone detention** for a period extending up to **one-half of the maximum period** of imprisonment specified for that offence under that law, **he shall be released by the Court on bail.**'

3. **A new Proviso has been added** under Section 479 (1) of the BNSS, which reads as follows:

'Provided that where such person is a **first-time offender** (who has never been convicted of any offence in the past) **he shall be released on bond by the**

Court, if he has undergone detention for the period extending up to **one-third of the maximum period of imprisonment** specified for such offence under that law.'

4. **Section 479 (3) of the BNSS casts a specific responsibility upon the Superintendent of Prisons**, where the accused person is detained, **to make an application to the concerned court for release of such prisoners on bail**. The text of Section 479 (3) is cited below for the information and attention of all prison authorities:

'The Superintendent of Jail, where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, **shall forthwith make an application in writing to the Court** to proceed under sub-section (1) for the release of such person on bail.'

5. Recently, the Supreme Court of India, in its Order dated 23rd August 2024, in 'Inhuman Conditions in 1382 Prisons' (copy attached) noted that the provisions of Section 479 of BNSS **'shall apply to all undertrials in pending cases irrespective of whether the case was registered against them before 1st July 2024'**, the date when the new law came into effect. **The Hon'ble Court has directed the Superintendents of Jails** across the country that wherever accused persons are detained as undertrials, **their applications may be preferred** to the concerned Courts, upon completion of one-half/one-third of the period mentioned in sub section (1) of Section 479, for their release on bail.

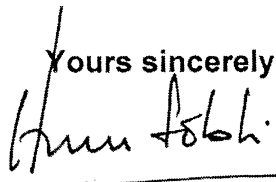
6. All States and UTs are requested to take note of the **specific legal mandate cast on the Superintendent of Prisons** under their jurisdiction and disseminate this information to all relevant ranks, particularly the Superintendent of Prisons, and monitor the effective implementation of the new provisions of BNSS, as cited above.

7. For assisting the State/UT Prison authorities in quick identification of eligible prisoners, the Ministry of Home Affairs has made **appropriate provisions in the national E-Prisons portal**, enlisting i) types of offences that prisoners have been charged with, ii) the maximum sentence for the offence committed, iii) the date of completion of one-half or one-third of the maximum period of imprisonment specified for an offence under the relevant law by a prisoner, etc. **The E-prisons portal has thus enabled the State Jail authorities to access the data of inmates in a quick and easy manner for identifying eligible inmates whose application needs to be moved to the Court for their release on bail.**

8. It is also brought to the attention of all States and UTs that some time back this Ministry had introduced a scheme namely **'Support to poor prisoners'**, aimed at providing relief to poor prisoners, who are either **unable to pay the amount of fine imposed on them or are unable to secure bail due to financial constraints**. Many such prisoners could be socially disadvantaged or may belong to low-income groups. With the endeavour of providing support to such prisoners, the Government

of India had decided to provide financial aid to such prisoners, through the respective States/UTs, which may help them in **paying their outstanding amount of fine or in securing bail bond**. Union Home Secretary, vide his letter dated 19th June, 2023, had forwarded the 'Guidelines and Standard Operating Procedure' of the Scheme to the Chief Secretaries and DG/IG Prisons of all States and UTs. **However, it is noted that many States/UTs are yet to take full advantage of this scheme** despite MHA's repeated persuasion in this regard.

9. It is expected that with the active involvement and monitoring by the States and UTs, **the new provisions of law will go a long way in not only mitigating the situation** of long detention faced by undertrial prisoners but will also address the issue of overcrowding in prisons. **States and UTs are requested to take full advantage of the national ePrisons portal and the Support to Poor Prisoners Scheme for providing relief to prisoners.**

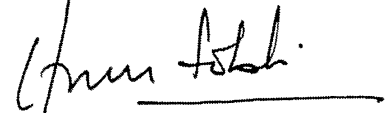
Yours sincerely,


(Arun Sobti)
Director (Prison Reforms)
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Email: dspr.atc@mha.gov.in

Copy to:

- i) The Secretary, Department of Justice, Jaisalmer House, New Delhi.
- ii) The Member-Secretary, National Legal Services Authority, 12/11, Jam Nagar House, Shahjahan Road, New Delhi

- with the request to issue suitable instructions to all State/District Legal Service Authorities to coordinate with the State Jail authorities/Superintendent of Prisons for preferring applications of eligible prisoners in the concerned Court in compliance of the Orders of the Hon'ble Supreme Court of India.



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MOST IMMEDIATE
IMPORTANT

No. 17013/20/2024-PR
Government of India
Ministry of Home Affairs

Women Safety Division, 2nd Floor
Major Dhyan Chand National Stadium
India Gate, New Delhi-110001
October 24, 2024

To

1. The Chief Secretaries of all States and UTs
2. DG/IG Prisons and Correctional Services of all States and UTs

Sub: Special Campaign for implementation of the provisions of section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by State Prison authorities for providing relief to undertrial prisoners as part of celebrating Samvidhan Divas on 26th November, 2024.

Sir/Madam,

As you are aware, the Ministry of Home Affairs has been taking various steps for addressing the issue of undertrial prisoners in the jails and decongestion of prisons. In this connection, Section 479 of BNSS, inter-alia, provides that "Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law."

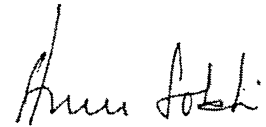
2. The Hon'ble Supreme Court, in its Order dated 23rd August, 2024 has also taken cognizance of the above provisions of BNSS and have directed the Superintendents of Jails across the country that wherever accused persons are detained as undertrials, their applications may be preferred to the concerned Courts, upon completion of one-half/one-third of the period mentioned in sub section (1) of section 479 of BNSS, for their release on bail/bond. The Hon'ble Court had also clarified that the provisions of Section 479 of BNSS 'shall apply to all undertrials in pending cases irrespective of whether the case was registered against them before 1st July 2024'. In this regard this Ministry's Advisory of even number dated 16th October, 2024 may be referred to.

3. The 'Constitution Day' known as 'Samvidhan Divas', is celebrated every year on 26th November to commemorate the adoption of the Constitution of India and for promoting constitutional values among the citizens. As part of the celebrations, it is

proposed to launch a special campaign on 'Samvidhan Divas' wherein all States and UTs, taking advantage of the provisions of Section 479 of the BNSS, will provide relief to undertrial prisoners by following due process. All States and UTs are, therefore, requested to take proactive steps to identify eligible undertrial prisoners and move the Court for their release on bail/bond on 26th November, 2024. States/UTs are also requested to intimate the number of prisoners identified and whose applications have been made in writing to the Court for the release of such persons on bail, in the attached proforma, to MHA

4. It may be noted that Section 479 of BNSS clearly makes an exception for persons who are not eligible for this benefit under the law, namely any offence for which the punishment of death or life imprisonment has been specified as one of the punishments. States/UTs may, therefore, carefully examine all cases while making an application under this Section and exclude the cases of heinous and serious crimes like rape, murder, terrorist acts, POCSO, NDPS, etc., where the punishment of death or life imprisonment has been specified as one of the punishments.

Yours sincerely,



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