

Punjab Prisoners (Attendance in Courts) Rules, 1969

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✓ NOTIFICATION

No. G.S.R. 7/CA 32/55/S.9/69. - In exercise of the powers conferred by section 9 of the Prisoners (Attendance in Courts) Act, 1955 (Act No. 32 of 1955), the President of India is pleased to make the following rules :-

1. Short title and commencement. - These rules may be called the Punjab Prisoners (Attendance in Courts) Rules, 1969 and shall come into force with immediate effect.

2. Definitions. - In these rules, unless the context otherwise requires, -

(a) "Act" means the Prisoners (Attendance in Courts) Act, 1955;

(b) "Section" means the section of the Act;

(c) "State Government" means the Government of the State of Punjab;

(d) "Superintendent of prison" means the officer incharge of prison; and

(e) All other words and expressions used in these rules and not defined herein shall have the same meaning as are respectively assigned to them in the Act or in the Prisoners Act, 1900 (3 of 1900), as the case may be.

3. Procedure for obtaining counter-signatures. [Sections 3 and 9 (2)(a)]. - Every order submitted to the District Magistrate or the District Judge for counter-signature under sub-section (3) of section 3 of the Act shall be accompanied by a statement under the hand of the Presiding Officer of the subordinate court of the facts which in his opinion render the order necessary and the District Magistrate or the District Judge, as the case may be, after considering such statement, countersign the order or decline to counter-sign it.

4. How a declaration that person confined in prison is unfit to be removed is to be made. [Sections 6 and 9(2)(b)]. - When the person named in any order made under section 3 appears to be unfit to be removed for reasons given in section 6, the Superintendent of the Prison in which he is confined shall apply to the District Magistrate, within the local limits of whose jurisdiction the prison is situated, and if such Magistrate by writing under his hand, declares himself to be of opinion that the person named in the order is unfit to be removed for reasons mentioned in section 5, the Superintendent of the Prison shall abstain from carrying out the order and shall send to the court from which the order had been issued a statement of reasons for so abstaining.

5. How a process is to be served on a prisoner [Section 9(2)(d)]. - When any process directed to any person confined in any prison is issued from any criminal or civil court, it may be served by exhibiting to the Superintendent of Prison the original of the process and depositing with him a copy thereof.

6. Process served to be transmitted at prisoners' request. [Section 9(2)(d)]. - (1)

Every Superintendent of Prison upon whom service is made under rule 5 shall be as soon as may be, cause a copy of the process deposited with him to be shown and explained to the person to whom it is directed and shall thereupon make an endorsement on the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under the charge and that he has been shown and explained the contents of the process.

(2) Such certificates as aforesaid shall be prima facie evidence of the service of the process, and if the person to whom the process is directed, requests that the copy shown and explained to him be sent to any other person, the Superintendent of Prison shall cause it to be so sent.

7. Procedure for regulating the escort of prisoners to and from courts in which their attendance is required and for their custody during the period of such attendance. [Sections 5 and 9(2)(e)]. - The duty of the escorting prisoners to and from the court in which their attendance is required shall be performed by the police.

8. Strength of escort [Section 9 (2)(e)]. - The strength of the escort shall be as follows on ordinary occasions:-

Number of prisoners	...	A.S.	Strenght the Head Constables	Constables
1 to 3 Prisoners	...	...	...	2
4 to 6 Prisoners	...	...	...	3
7 to 10 Prisoners	...	...	1	4
11 to 15 Prisoners	...	...	2	5
16 to 20 Prisoners	...	...	2	8
21 to 25 Prisoners	...	...	2	10
26 to 30 Prisoners	...	...	2	12
31 to 50 Prisoners	...	1	2	16

Provided that when undertrial prisoners are excused from wearing handcuffs, the strength of their escort shall be two constables for each undertrial prisoner with head constables as in the scale above except for journeys made in police vans when the usual strength of escort may suffice:

Provided further that where an escort is required of a notorious criminal suspected of attempting to escape or commit violence or suicide a special guard (as may be prescribed) shall be supplied.

9. Escort of prisoners during road journey [Section 9(2)(e)]. - In escorting prisoners by road the escort commander shall,

- (1) keep all prisoners under his charge together in the compact body;
- (2) place all police under his charge in order at a distance of at least five paces from the prisoners on each flank and place himself and half the force in the rear;
- (3) never travel at night unless absolutely necessary and previously authorised;
- (4) regulate marches so as, if possible, to locate prisoners at night in a lock-up or in the interior of a police station or other place of security; and

- (5) when the Court is situated at some other station, arrangements shall be made by the officer-in-charge of Police Escort for carrying luggage of the prisoners by a suitable conveyance.

10. Handcuffing of prisoners [Section 9(2)(a)]. - The handcuffing and fettering of convicted prisoners and undertrial prisoners while travelling by rail or road shall be regulated as below :-

A - Convicted prisoners - (a) "Handcuffs" - Handcuffs shall be imposed on convicted prisoners when travelling by rail or road as below:-

- (1) Male prisoners in the superior class, who have been sentenced to more than two years rigorous imprisonment, shall be handcuffed;
- (2) Other prisoners in the superior class shall not be handcuffed unless the Superintendent of Police for special reasons to be recorded in writing, orders otherwise;
- (3) Male prisoners in the ordinary class shall ordinarily be handcuffed;
- (4) Female prisoners shall not be handcuffed unless it is essential to prevent escape, violence or suicide. Where handcuffs are imposed on such prisoners reasons thereof shall be recorded in writing by the senior police officer at headquarters:

Provided that any general or special order issued by the State Government from time to time in regard to the handcuffing of any particular prisoner, or class of prisoners shall be followed:

Provided further that it shall be in the discretion of the officer in-charge of the Police Escort to exempt sick or otherwise infirm prisoners from being handcuffed.

(b) Fetters. - (1) Convicts in the superior class who have been sentenced to not more than two years rigorous imprisonment shall, when travelling by rail or road, not wear fetters unless the Superintendent of Police for special reasons to be recorded in writing, requires, their imposition. Such prisoners may be allowed to wear their own clothes in transit if they so desire.

(2) When travelling by rail or road, other convicts when convicted of any of the offences specified below, shall wear fetters:-

Offences punishable under sections 224, 225-B, 302, 303, 304, 307, 308, 392 to 402, Indian Penal Code.

(3) Female prisoners shall not wear fetters;

(4) The Superintendent of Prison in applying for the police escort shall enter in the requisition from the name, offence, sentence and classification of any convict whom he does not propose to fether and who has been allowed to wear private clothes.

B - Undertrial Prisoners. - (1) In the case of undertrial prisoners requisitioned by the police for attendance in court or before a magistrate or under the authority of a competent magistrate for any other purpose, the responsibility for deciding as to which undertrial prisoners are to be handcuffed or fettered or both, and for seeing that the decision is carried out shall rest with police authorities:

Provided that undertrial prisoners charged with offences specified below shall not be handcuffed when in transit by rail or road from or to courts unless there is reasonable ground for apprehending escape, violence or suicide and

where possible, the orders of the Superintendent of Police or of any other senior police officer at the headquarters have been taken with the reasons for imposing handcuffs:

Provided further that any general or special order issued by the State Government from time to time in regard to the handcuffing of any particular prisoner or class of prisoners shall be followed.

Indian Penal Code - Chapters VA, VI and VIII Sections 153-A to 160, Chapter IX except sections 170 and 171, Chapters IX-A and X, Chapter XI except sections 1, 26-341 to 352, 355 to 358, sections 384 to 389, 403; 404, 421 to 434, 447 and 448 Chapters XVIII, XIX, XX, XXI and XXII, all non-cognizable offences.

Code of Criminal Procedure - Persons against whom proceedings under section 108 are in progress.

Other Act - All non-cognizable offences.

(2) All undertrial prisoners handcuffed shall, as far as possible, be kept separate from those not handcuffed when escorted to and from jail.

(3) In court, handcuffs of undertrials shall invariably be taken off unless the presiding officer directs otherwise.

(4) In the case of undertrial prisoners charged with murder, fetters shall not be imposed when in transit to courts at the headquarters of the district, unless the prisoner concerned is also charged with some other crime of violence, or is known to be a dangerous or hardened criminal.

(5) Fetters shall not be imposed on undertrial prisoners in transit, except in the case of those charged with murder or dacoity and unless, there are special reasons for doing so, to be recorded in writing by the senior police officer at headquarters.

(6) Female undertrial prisoners shall not be handcuffed unless it is essential to prevent escape, violence; or suicide. Where handcuffs are imposed reasons therefor shall be recorded in writing by the senior police officer at headquarters.

11. Intimation by Superintendent of Prison to Police for carrying prisoner to court. [Section 9(2)(e)]. - (1) A notice of intended production of prisoner before a court shall be given in writing by the Superintendent of Prison to the police authorities one day in advance (excluding Sundays and holidays), if required for duty within the district, and of four days in advance if required to proceed beyond the district. The requisition shall be in writing, however, telephonic message may be sent as advance intimation of the written requisition.

(2) The requisition for the police guard shall state the number and the class of prisoners to be escorted, whether male or female and whether there are any violent and dangerous characters amongst them or not.

Note. - Dacoits and prisoners sentenced to transportation for life or long term imprisonment shall be classified as "Dangerous prisoners" for the purpose of sub-rule (2).

12. Duty of Police to provide escort of prisoners. [(Section 9(2)(c)(f) and (g)].
- (1) The escort of prisoners under the Act shall be undertaken by the police, whenever an order for the production of prisoner to give evidence or to answer a charge, under the Act, is received from a competent court by the Superintendent of Prisons.

Such Officer shall (unless such order may be and is disobeyed under the authority of provisions of section 6 of the Act) send a copy of court's order to the Superintendent of Police in whose jurisdiction such a prison is situated, who thereupon shall cause the necessary police guard to be detailed in accordance with the terms of the order and prisoner shall be made over to the custody of this guard. Such Superintendent of Police shall be responsible for providing the escort hereinafter described and, for safe custody of the prisoner named in such order until he is re-delivered to a prison. Whenever a prisoner is produced before a court, situated outside the district in which he is confined the officer in-charge of the prisoner shall report the fact of such production to the District Magistrate and the Superintendent of Police of the district, from which the prisoner is so produced.

(2) When undertrial prisoners are excused from wearing handcuffs, the strength of escort shall be two Constables for each undertrial prisoner with Head Constable as in the scale laid down in rule 8 except for journeys made in police vans when the usual strength of escort may be provided where an escort is required in case of dangerous prisoners, a special guard shall be supplied.

Note. - Dangerous Prisoners will mean as defined in the note to rule 11.

13. Police to be responsible for safe custody of prisoners. [Section 9 (2)(e)(f) and (g)]. - From the time of delivery of the prisoners, the responsibility for their safe custody shall rest with the Officer-in-charge of the police escort until their return to the prison and endorsement by the Superintendent of Prisons of a certificate on the list to the effect that the prisoners have returned in security to the prison or have not returned owing to good and sufficient cause. The Officer-in-charge of the police escort shall make such additions and alterations as may be necessary in the list before the prisoners are returned to prison.

14. Handcuffs not to be removed. [Section 9(2)(e)(f) and (g)]. - Prisoners whom it is necessary to be handcuffed shall be handcuffed before leaving the prison. The handcuffs shall not be removed except when the prisoners are before the court or confined in a place of security.

15. Custody of prisoners during night. [Section 9 (2) (e) (f) and (g)]. - Convicted prisoners and undertrial prisoners in the Court of a Magistrate in camp shall be kept at night in the lock-up of a police station if there is any such station within five miles. When they are kept at night elsewhere other than in a lock-up they shall be fastened to each other by chains which should be procured by the Officer-in-charge of the police escort for the prison, before departure. The officer-in-charge of the police escort for the prisoners shall be responsible subject to the orders of the magistrate for their protection from the weather and for their transport and food.

16. Route of Journey. [Section (2) (e) (f) and (g)]. - Prisoners shall be escorted to the courts and back again to the prison by the nearest route, but as far as possible, bazars and crowded thoroughfares shall be avoided.

17. Separate guard for female prisoners. [Section 9 (2) (e) (f) and (g)]. - When female prisoners are produced in courts they shall not be sent along with the ordinary Hawalat guard; separate guard shall be provided.

18. Conveyance of prisoners by vehicles. [Section 9(2) (e)(f) and (g)]. - (1) Where prisoners are situated at a distance from courts, prisoners will ordinarily be

conveyed to and from courts in Government vehicles, if Government vehicles be not available, by any other mode of conveyance plying for the purpose.

(2) When a prisoner is sick, suitable means of conveyance shall be provided on a certificate under the hand of the Medical Officer of the Prison from which he is removed.

(3) Any prisoner who wants to travel in a separate conveyance and is willing to pay for himself as well as for his escort, may be permitted by the Officer-in-charge of the escort to do so provided suitable arrangements can conveniently be made.

19. Prisoners to be returned after disposal of cases. - [Section 9(2)(e)(f) and (g)]. - All prisoners whose cases have been disposed of and who have to be sent back to the prison, shall, as far as may be possible, be sent there without being kept waiting for others.

20. "Additional Guard" - The Officer-in-charge of the police escort shall apply to the Reserve Inspector for an additional guard, if the guard in attendance is not sufficient.

21. Diet of prisoners during escort. [(Section 9(2)(e)(f) and (g)]. - The Inspector-General of Prisons shall, from time to time, fix the scale of diet for prisoners removed under these rules, and the officer-in-charge of the escort shall provide prisoners with diet in accordance with such scale. Where the court in which evidence is to be given is situated at the station where the Prison from which the prisoner is removed is situated, the Superintendent of Prisons shall supply the prisoners food ready cooked. When the aforesaid court is situated at a distance, the estimated cost of the prisoners, ration shall be paid to the officer-in-charge of the police escort, by the Superintendent of Prisons. But it shall be in the competency of any court in criminal cases to decline to summon any prisoner if the court is satisfied that his evidence is not necessary in the interest of public justice and if the complainant and or defendant applying for the said prisoner's examination before the court fails to deposit the estimated cost of conveying the prisoner to and from the court. These costs shall be calculated on the scale hereinafter laid down in the cases of civil suits. If on examination of the said prisoner the court is of the opinion that his evidence was not required in the interest of the public justice, the deposited costs shall together with a certificate to the effect under the hand and seal of the court be forwarded to the Superintendent of Police of the district in which the court is held, and the money shall be credited according to the instruction to be issued by the Inspector-General of Police with the sanction of the State Government.

Note. - The Officer-in-charge of the police escort will submit payment vouchers in support of the dietary charges incurred by him and a certificate of actual disbursement of the charges will be recorded by him on the payment vouchers.

Explanation. - The expression "Public Justice" occurring in rule 21 above means "dictates of justice required in a particular case".

22. Deposits of costs. - In civil suits the courts shall require any party to the suit, who may apply for the summoning of any prisoner under the Act to deposit, prior to the issue of the summons, an amount sufficient to defray the estimated cost of conveyance, diet and escort of the prisoner whose testimony is required:

Provided that no cost shall be demanded from pauper judgment-debtors in prison who have applied to be declared insolvent under Section 6 of the Pro-

vincial Insolvency Act, 1920, and whose attendance is required by a civil court at its own instance for examination under section 14 of that Act, or when the court is satisfied that the parties to the suit are absolutely unable to pay. Such cost shall be calculated as follows :-

- (a) Conveyance by rail or road: Actual charges as in rule 21.
- (b) Diet: 75 Paise per day when escorting in the plains and Re. 1/- when escorting in the hills tracts.

Police Escort

Travelling and Daily Allowance according to rules contained in Punjab Civil Services Rules Volume III

(T.A. Rules).

Pay of Escort

Inspector at Rs. 12 per day

Sub-Inspector at Rs. 8/- per day.

Assistant Sub-Inspector at Rs. 6/- per day.

Head Constable at Rs. 5/- per day.

Constable at Rs. 3/- per day.

The Superintendent of Police and Jail Department will maintain a register to watch the realization of the cost of escort, dietary charges and conveyance charges, etc., from the courts concerned.

The money thus deposited shall be paid over by the court to the Superintendent of Police as provided for in rule 21.

23. General. - The above shall, mutatis mutandis, be applicable in the cases of those prisoners also who are sent for to answer charges made against them, as well as in the cases of prisoners who are sent for to give evidence in criminal trials.

24. Repeal and saving. - The Punjab Prisoners (Attendance in Court) Rules, 1963, are hereby repealed:

Provided that anything done or any action taken under the rules hereby repealed shall be deemed to have been done or taken under the corresponding provisions of the rules.