

The Assam Prisons (Leave and Emergency Release) Rules, 1968

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The 12th August 1968

No. HJL. 8/63/68.—In exercise of the powers conferred by clauses (5) and (28) of Section 59 of the Prisons Act, 1894 (IX of 1894), in its application to the State of Assam, the Governor of Assam is pleased to make the following rules, namely :—

1. **Short title and extent and commencement.** (1) These rules may be called the Assam Prisons (Leave and Emergency Release) Rules, 1968.

(2) These rules extend to the whole of the State of Assam.

(3) They shall take effect from the date of publication.

2. **Definitions.**—In these rules :—

(a) 'emergency release' means temporary release of a prisoner that may be granted on grounds of emergencies like death or serious illness of father/mother/Father-in-law, mother-in-law, Uncle, aunt/brother/sister/spouse/children or marriage of son, daughter and brother/sister, etc.;

(b) 'Government' means the Government of Assam;

(c) 'leave' means a concession of temporary release that may be granted to prisoner;

(d) 'prisoner' means a person confined in prison under an entire of imprisonment;

(e) 'sanctioning authority' means the Inspector-General of Prisons or the Joint Inspector-General of Prisons (Headquarters) when the former is out of Headquarters;

(f) 'sentence' means a sentence of imprisonment as finally fixed on appeal or revision or otherwise and includes an aggregate of more sentence than one but does not include sentence in default of fine.

3. **Sanctioning authority.**—Subject to the provisions of these rules and notwithstanding anything contained in Section 401 of the Code of Criminal Procedure, 1898, a prisoner may be granted leave or emergency release by the sanctioning authority.

1. Now read section 432 of Cr. P.C., 1973.

4. When prisoners shall not be granted leave release. The following categories of prisoners shall not be eligible for being granted leave or emergency release :--

- (i) Offenders classified as habituals ;
- (ii) Prisoners sentenced under Sections 392 to 402 of the Indian Penal Code ;
- (iii) Prisoners whose release is considered dangerous or prejudicial to public peace and tranquility by the District Magistrate Superintendent of Police ;
- (iv) Prisoners who are considered dangerous, or who are involved in serious prison violations like assault, outbreak, riot, mutiny, escape, instigation to serious violations, strike, etc. ;

Note.—In case of prisoners mentioned in (iv) the Inspector General of Prisons will pass orders debarring them from concessions of leave

- (v) Prisoners transferred to special prisons on disciplinary grounds, for the period of their incarceration in such prisons ;
- (vi) Prisoners committed to prisons in default of furnishing security to keep the peace or be of good behaviour ;
- (vii) Prisoners suffering from unsoundness of mind or contagious diseases,

Note.—In case of prisoners mentioned at (vii) the eligibility may be decided in accordance with the opinion of the Civil Surgeon.

- (viii) Prisoners convicted of offence under Assam Opium Prohibition Act;
- (ix) Prisoners or class of prisoners whose leave or emergency release is not permitted under special or general orders of the Government.

5. When prisoners not to be released.—Prisoners who are imprisoned for offences against law relating to a matter to which executive power of the Union Government extends or whose release is likely to have repercussion elsewhere in the country shall not be granted leave or emergency release by the sanctioning authority without prior approval of Government.

6. Eligibility for leave.—(i) Subject to provisions of rule 4, eligibility for leave for fourteen days shall be regulated as shown in Appendix R.

(ii) Leave shall not be granted to a prisoner within a period of six months from the date of his surrender after the expiry of emergency release ;

(iii) A register shall be maintained as in Appendix 'B' in which all cases of prisoners eligible for leave shall be posted at least three months in advance of the date on which they become eligible for being taken on leave and shall be placed before the Jail Superintendent.

7. Procedure for Application.—(i) The Jail Superintendent shall examine the cases of each prisoner who is eligible for leave to find out whether the prisoner is fit for being released on leave. The cases shall be considered on the following points. ---

- (a) Conduct.
- (b) Work.
- (c) Progress achieved in various spheres.
- (d) Effort for introspection and self-improvement.
- (e) Attitude towards family and community.
- (f) The manner in which previous period of leave or emergency release was utilized, such examination shall be completed at least before 60 days of the date on which a prisoner becomes eligible for leave.

(ii) Prisoners whose conduct has been found to be unsatisfactory or prisoners who are punished for prison offences shall be considered as unfit for being considered for release on leave. In such cases the period after which the case will be reviewed shall be decided by the Superintendent of Jails and the prisoner informed accordingly.

(iii) A prisoner, whose case the Superintendent of Jail has decided to recommend for release on leave, shall be informed to submit to him an application in triplicate to the Inspector-General of Prisons in the prescribed form as in Appendix 'C'. In his application, the prisoner shall state, amongst other things, the name and address of his relative or friend with whom he wishes to stay during the period of leave.

(iv) One copy of the application shall be retained in the office of the Superintendent of Jails and the other two copies, together with descriptive roll of the prisoner shall be forwarded respectively to the Inspector-General of Prisons and Superintendent of Police indicating the due date of release as well as the date on which the final recommendation of the District Magistrate should be received so as to enable the Superintendent of Jail to obtain orders of the sanctioning authority before the due date for release. The Superintendent of Police in his turn shall forward the application to the District Magistrate along with the requisite information and his recommendations. The Superintendent of Police shall specifically state whether the relative or friend of the prisoner is willing to keep him during leave period. If the Superintendent of Police does not recommend release on leave, detailed reasons thereof shall be given by him. The District Magistrate shall forward the requisite information along with his recommendations to the Inspector-General of Prisons. If these recommendations are not received by the Inspector-General of Prisons within the date as mentioned above it shall be presumed that the application is recommended and that the relative or friend of the prisoner is willing to accept him during the leave.

✓ Grant of release on leave. If on receipt of the recommendations of the District Magistrate, the Inspector-General of Prisons is satisfied that there is no objection to grant the leave applied for, he shall make an order for release of the prisoner on leave for fourteen days and suspension of the execution of sentence on such conditions as may be specified in the order. The following conditions shall invariably be laid down in addition to such other conditions, if any, as may be deemed necessary.

- (a) That the prisoner shall give cash security for the amount ordered by the Inspector-General of Prisons or execute a personal recognizance bond or execute a bond with sureties, according to the directions of the Inspector-General of Prisons in the prescribed forms as in Appendix 'D' and 'E'.
- (b) That the said prisoner shall reside at the place designated by the Inspector-General of Prisons and shall not go beyond the limits of that place.
- (c) That the said prisoner shall be of good behaviour and shall not commit any offence.
- (d) That the prisoner shall contact the Probation Officer or the After-care Officer, if any of the area where he will be staying.
- (e) That the prisoner shall not associate with bad characters or lead a dissolute life.
- (f) That the prisoner shall be liable to be recalled immediately to prison in case he violates any of the conditions.
- (g) That the prisoner shall surrender himself to the Superintendent of the Jail on expiry of the leave period or on recall.

9. **Postponment of release on leave.** (i) If the prisoner commits serious violations of prison discipline after the despatch of the application and prior to his actual release on leave from the prison, the Superintendent of the Jail may postpone his release on leave. In such cases, the Superintendent shall forward a report along with his recommendations to the Inspector-General of Prisons for further orders.

(ii) On the application of the prisoner, the Superintendent of the Jail may postpone the prisoner's release on leave ordered by the Inspector-General of Prisons so that the leave period may synchronise with agricultural operations like sowing, harvesting or such work as repairing the homestead or attending marriage in the prisoner's family, etc. In such a case, a report shall be submitted to the Inspector-General of Prisons for information.

(iii) Prior to being released on leave, the inmate should be oriented and prepared for his leave.

10. (i) On receipt of orders of the Inspector-General of Prisons the prisoner shall be released on leave, provided he executes the necessary bond and signs the required conditions. At the time of release the prisoner shall be supplied with an identification card and a certificate of release on leave. The prisoner shall be ordered to report at the Jail on the due date before lock up.

(ii) Whenever any prisoner is released on leave, intimation of his release shall be given to :-

- (a) District Magistrate and the Superintendent of Police of the District within whose jurisdiction the prisoner proposes to spend his leave.
- (b) The District Magistrate and the Superintendent of Police within whose jurisdiction the prisoner was convicted.

- (c) The District Magistrate and the Superintendent of Police from whose jurisdiction the prisoner jails.
- (d) The Probation Officer/Aftercare Officer, if any, of the area where the prisoner will be spending his period of leave.

(iii) The Probation Officer/Aftercare Officer, if any, of the area where the prisoner was staying during his leave period shall, wherever possible, contact the prisoner and send to the Superintendent of Police a report about the prisoner's behaviour during leave period.

11. (i) The period of release on leave shall count towards sentence.

(ii) The period stated in the release order shall not be extended and no application for such extension of leave shall be entertained.

(iii) The prisoner shall return from leave on the due date before lock-up.

(iv) If a prisoner released on leave does not return to the prison on the due date, police authorities should immediately be telegraphically requested to arrest and bring him back to the prison. In each case of late surrender or breach of any of the conditions of leave, the Superintendent of Jail shall record the statement of the prisoner and hold an enquiry for punishment to be awarded in cases of late surrender.

12. (i) When a prisoner returns from leave, a report in the prescribed form as in Appendix 'F' shall be forwarded to the Inspector-General of Prisons. Similar intimations shall also be sent to the District Magistrate and Superintendent of Police.

(ii) On return from leave, the prisoner's response to the release on leave should be evaluated by the Superintendent of Jail. All these observations should be kept in the inmate's file for being further studied.

13. A leave register with prescribed form as in Appendix 'G' showing details of applications for leave, dates of orders, dates of release and surrender etc., shall be maintained.

14. **Emergency release.**—The sanctioning authority may subject to the provisions of Rule 15 grant emergency release to a prisoner on the following grounds.—

(i) to facilitate the inmate's presence in his family during a period of grave emergency like death or serious illness of father/mother/brother/sister/spouse/children;

(ii) to facilitate the inmate in specialized treatment for diseases like tuberculosis, cancer, etc., in accordance with the opinions of the prison Medical Officer to be approved by the Civil Surgeon.

(iii) To facilitate attending the marriage ceremony of his daughters, sons, brothers and sisters.

15. Prisoners who are eligible for release on leave shall ordinarily be considered as eligible for emergency release. Under very special circumstances Government may consider emergency release on such conditions as may

be deemed necessary according to the requirements of each individual case of other category of prisoners who are not eligible for release on leave.

16. Procedure for obtaining release.— A prisoner who desires to be released for emergency purposes shall submit his application in the prescribed form as in Appendix 'C' to the Superintendent of the Jail who shall endorse his remarks thereon and forward the same direct to Inspector-General of Prisons along with the descriptive roll. In case of prisoner required to be released for medical reasons, a certificate from the prison Medical Officer to be countersigned by the Civil Surgeon shall be attached to the application. A copy of this application shall be sent to the Inspector-General of Prisons. Prisoner who applies for emergency release on false grounds or who abuses the concession or commits breaches of any of the conditions of emergency release shall be liable to be punished.

17. Conditions of emergency release.— The sanctioning authority shall grant such release to a prisoner subject to his executing a personal bond in the prescribed form as in Appendix 'E' or furnishing cash security in the prescribed form as in Appendix 'F' appended to these rules and also subject to a surety executing a bond, in Form 'G' appended to these rules if so required. The release may further be subject to any of the following conditions:—

- (i) That the prisoner shall reside at the place to be designated by the Inspector-General of Prisons or the Government, as the case may be, during the period of emergency release and shall not go beyond the limits of the said place without the permission of the District Magistrate/Sub-divisional Magistrate.
- (ii) That the prisoner shall be of good behaviour and shall not commit any offence punishable by or under any law in force in India.
- (iii) That the prisoner shall not associate with bad character or lead a dissolute life.
- (iv) That the prisoner shall surrender himself to the Superintendent of Jail on expiry of the period of emergency release.
- (v) That the prisoner shall be immediately recalled to prison in case of violation of conditions.
- (vi) That the prisoner shall stay in a T.B. sanatorium or hospital or any other specified place, as the case may be, in the interest of his health, if so required.

18. On receipt of orders sanctioning the emergency release of a prisoner, he shall be released immediately after observing all the conditions laid down in Rule 10.

19. (i) The period of release on emergency grounds shall not count towards sentence. It shall be treated as out period.

(ii) A report shall be submitted by the Superintendent of Jail to the Government and copies thereof sent to the Inspector-General of Prisons, the District Magistrate, the Superintendent of Police and the Probation

Officer or Aftercare Officer, if any, when a prisoner is released and when he returns to the Jail.

20. Extension.—If a prisoner on emergency release requires extension he may apply for the same to the authority sanctioning the emergency release. Such authority after fully satisfying itself may grant extension for such period as may appear to it to be absolutely essential in the circumstances of the case. If orders authorising the extension are not received before the expiry of the emergency release period, the prisoner shall report back to the Jail.

APPENDIX 'A'

[Rule 6 (D)]

Sentence	When due for first release on leave	When due for second release	When due for subsequent release
Exceeding one year but not exceeding five years.	On completion of one year of actual imprisonment to be counted from the date of admission to prison.	After completion of one year of actual imprisonment to be counted from date of his last return from leave.	After completion of one year of actual imprisonment to be counted from date of his last return from leave.
Exceeding five years but not exceeding fourteen years.	On completion of two years of actual imprisonment to be counted from the date of admission to prison.	After completion of two years of actual imprisonment to be counted from the date of his last return from leave.	After completion of one year of actual imprisonment to be counted from the date of his last return from leave.
Prisoners sentenced to life imprisonment and to periods of imprisonment exceeding four-fourteen years.	On completion of three years of actual imprisonment to be counted from the date of admission to prison.	After completion of two years of actual imprisonment to be counted from date of his last return from leave.	After completion of one year of actual imprisonment to be counted from the date of his last return from leave.

APPENDIX 'A'

Leave Register in accordance with Appendix 'A'
[Rule 6 (III)]

Name of the prisoner	Total leave due	Leave already granted	Balance of leave

APPENDIX 'B'

[Rules 7 (III) and 11]

Form of application for release on Leave/Emergency Release

To

The Inspector-General of Prisons, Assam,

The Joint Inspector-General of Prisons, Assam.

Sir,

I (name of prisoner)..... Prisoner No. confined in Prison hereby apply for release on leave/emergency release for..... day/weeks, to go to my native place at (full address to be given here)..... for the following reasons and will stay with my relative Shri..... during the leave/emergency release.

Signed by the Prisoner before me.

Jailer - Prison.

Date-

Signature of the Prisoner.

The Prisoner confirms that the facts stated by him are true. He is prepared for the action that may be taken against him if they prove to be false.
IMMEDIATE.

No..... Date.....
..... Prison Officer.

Superintendent.

..... Prison.

The date of release of the Prisoner.....
Date on which recommendation of Dist. Magistrate should be sent to the Inspector-General Prisons not later than.....

Forwarded to. - (i) The District Superintendent of Police with Descriptive Roll with a request to make immediate enquiries to ascertain if the ground or grounds on which release on leave/emergency release is applied for is or are genuine and to submit his report immediately to the District Magistrate mentioning *inter-alia* whether he recommends the grant of release on leave/emergency release and the amount of post grant and also whether there is a likelihood of breach of peace if the prisoner is released on leave/emergency release. And also state whether the relative or friend is willing to keep him during the leave.

(ii) The Inspector-General of Prisons with a copy of the Descriptive Roll for information.

Superintendent of Prisons

APPENDIX 'D'

Surety Bond
[Rule 3(a)]

I, _____ inhabitant of _____ hereby declare myself surety for _____ Prisoner No. _____ and give the guarantee that he shall duly observe the conditions of release on leave/emergency release set out in Schedule 2. And I shall appear myself before the Superintendent of _____ Prison _____ on the expiration of the period of his release on leave/emergency release and in case of his making default herein, I hereby bind myself to pay to the Government of Assam the sum of Rs. _____

And I agree that any extension of time given to prisoner _____ shall not discharge me from my liability to pay the said amount.

Date this _____ day of _____ 19 _____

Signed by the above named surety in _____ in presence of _____

- 1. _____
- 2. _____

Signature of the Surety.

*The conditions of release should be attached to the bond as a Schedule.

APPENDIX 'E'

Personal Bond
[Rules 3(a) and 4]

Whereas I (name) _____ inhabitant of (Place) _____ have been sentenced to undergo imprisonment for the term of _____ years.

And whereas the Government of Assam (Inspector-General of Prisons, State of Assam; Joint Inspector-General of Prisons (Headquarters)) has been pleased to release me on leave/emergency release for the term of _____ commencing from _____ and ending on _____ on condition of my executing a Personal Recognition Bond for my appearance on the following date, viz., _____. I hereby agree, with and bind myself unto the Government of Assam to abide by the conditions mentioned in the Schedule *attached and further agree to appear and surrender myself before the Superintendent of _____ Prison at _____ O'clock on the following date, viz., _____ and in case the period of release on leave/emergency release is extended then on the date following the date of expiry of such extended period of leave/emergency release and in case of my making default herein I bind myself to pay to the Government of Assam a sum of Rs. _____ and I agree that the Government of Assam may without prejudice to any other rights or remedies recover the said sum from me as an arrear of land revenue.

Dated this _____
 Before me _____
 Superintendent, Prison.

Date of _____ 19____

Signature of the Prisoner.

*Schedule (to be filled in).

APPENDIX 'F'

(Rule 12)

The Inspector-General of Prisons, District Magistrate, Superintendent of Police,
 Sir,

I have the honour to say that Shri _____ prisoner who was granted leave/released on emergency vide order No. _____ dated _____, has since returned to the prison within due date and time.

Superintendent of Jail.

APPENDIX 'G'

(Rule 13)

Name of the prisoner	Details of application	Date of orders vide	Date of release	Date of surrender	Remarks
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