

Government of Gujarat
Home Department
No.:JLK/392014/1194/J
Sachivalaya, Gandhinagar
Date:28/04/2014

Preamble:

The state Government empowers to invoke prohibitive order for not removing the convict/accused from the Jail u/s. 268(1) of the Code of Criminal Procedure, 1973. It is necessary to publish guidelines to invoke prohibitive order u/s. 268(1) of the Code of Criminal Procedure, 1973. The matter was under consideration of the Government.

Circular:

After careful consideration the Government directs to follow the procedure laid down as under while sending the proposal by Police Authorities to invoke prohibitive order which empowers the Government to restrict the movement of convict/accused in various jails of the State.

- (1) There should be clear opinion from the concerned Police Commissioner/ District Police Superintendent and also DGP to invoke prohibitive order u/s. 268(1) of the Code of Criminal Procedure, 1973. The opinion should consist the conduct of prisoner and also the seriousness of cases against the prisoner and if necessary, the statement of citizens. If the prisoner is in jail the report of jail conduct of the prisoner may be taken by DGP from the Jail Authorities and the said proposal be sent to the Government.
- (2) The proposal of DGP should consist the details of arrangement made to protect the fundamental rights of the prisoner under article 19 and 21 of the Constitution and also the meaning of sanction 309 of Cr.P.C. and the Government shall clarify the details in the order. In addition to this after invoking prohibitive order u/s. 268(1) of the Code of Criminal Procedure, 1973, there shall be an arrangement for speedy trial of all cases against the prisoner.
- (3) For speedy trial of cases against the prisoner or for any reason if it requires to revoke the prohibitive order u/s. 268(1) of the Code of Criminal Procedure the DGP shall have to make an arrangement for Police Party. When the prohibitive orders u/s. 268(1) of the Code of Criminal Procedure are in force the Police Party must consist of an officer of the level of Class-I Armed Deputy Superintendent of Police and also other arrangement like commando with modern arms and if necessary arrangement of Bullet Proof vehicle may be ensured while sending proposal to the Government by DGP office.

(4) When the Government decides to invoke orders u/s. 268(1) of the Code of Criminal Procedure, in that case the Government will issue speaking orders, in which care will be taken while imposing conditions which will not affect the speedy trial of court cases.

(5) The prohibitive order u/s. 268(1) of the Code of Criminal Procedure shall not be for the indefinite period. This prohibitive order is for definite period and before expiry period the same shall be reviewed. In the circumstances the Government will receive the proposal to review the cases from the DGP in which the prohibitive order u/s. 268(1) of the Code of Criminal Procedure has been invoked. The Government as well as the DGP will maintain the prescribed register as under and the DGP will review all the cases after every three years and send the proposal to the Government.

Sr.No.	Name of accused/ Prisoner	Name of Jail	Number and Date of order invoked u/s. 268(1) of Cr.P.C.	Date of review of order invoked u/s. 268(1) of Cr.P.C.	Details of review of order invoked u/s.268(1) of Cr.P.C.
(1)	(2)	(3)	(4)	(5)	(6)

In addition to this, the DGP will constitute a committee under his chairmanship which consists the concerned District Police Superintendent, Police Commissioner, and Head of the Crime Branch before sending the proposal for invoking prohibitive order u/s. 268(1) of the Code of Criminal Procedure to the Government. The committee will consider to invoke the prohibitive order u/s. 268(1) of the Code of Criminal Procedure and will give specific recommendation. On the basis of the recommendation the DGP will send the proposal to the Government as per the prescribed check list as under;-

Check List giving details of proposal to decide to invoked the prohibitive order u/s. 268(1) of the Code of Criminal Procedure against the accused/prisoner

Sr.No.	Points	Details
01	Details in short about the criminal history of the accused/prisoner.	
02	The details of the offences registered against the accused/prisoner with the latest information.	
03	The latest details of the trials in various courts against the accused/prisoner, with details of court case no./date and the details if the case is committed.	
04	Details of police station wise various cases in which investigations are pending against the accused. (with C.R.No./Section)	
05	The details of the cases in which the accused/prisoner was convicted (with names of the convicting courts)	
06	The details of the preventive actions taken against the accused e.g. PASA, externment etc.	
07	The details of action taken for preserving the fundamental rights and also arrangements made for protecting the rights of the prisoner.	
08	Opinion of concerned District Police Superintendent/Police Commissioner and the opinion of Jail Authorities if the prisoner is	

	in jail. The opinion should include clear details on the following points as per section 268 of Criminal Procedure Code-1973 (a) the nature of the offence for which, or the grounds on which, the person or class of the person has been ordered to be confined or detained in prison, (b) the likelihood of the disturbance of public order if the person or class of person is allowed to be removed from the prison, (c) the public interest generally.	
09	Details of producing the prisoner in various courts for various trials through Video Conferencing System	
10	If it requires to revoke the prohibitive order u/s. 268(1) of the Code of Criminal Procedure to produce the prisoner in the court or for any reason the DGP shall have to make an arrangement for Police Party. The DGP will have to ensure that the Police Party must consist of an officer of the level of Class-I Armed Deputy Superintendent of Police and without this arrangement also other arrangement like commando with modern arms and if necessary arrangement of Bullet Proof vehicle may be ensured while sending proposal to the Government by DGP. The details of above arrangement.	
11	Clear opinion with reasons about the prisoner by the committee constituted for invoking prohibitive order u/s. 268(1) of Cr.P.C.	

The DGP & Inspector General of Prisons, Gujarat State, Ahmedabad will send the proposal to invoke the prohibitive order u/s. 268(1) of Code of Criminal Procedure through DGP. In such circumstances the Nodal Officer of DGP will file an affidavit in Hon. Court, except this there will not be any writing or undertaking. In such matter all Jailor/Jail Superintendent of various jail will have to work in co-ordination with Inspector General of Prisons, DGP and the Government.

The Additional DGP (Law & Order) will maintain the register of the prisoner on whom the prohibitive order u/s. 268(1) of Code of Criminal Procedure have been invoke. The DGP will nominate DIG/IGP (Law & Order) as the Nodal Officer for Court Procedure in Hon. Court.

By order and in the name of the Governor

Dilip G. Soni
Deputy Secretary
Home Department

To,

PS to Hon. Chief Minister, Sachivalaya, Gandhinagar
PS to Hon. Minister of State (Home), Sachivalaya, Gandhinagar
PPS to Addl. Chief Secretary (Home), Home Department, Sachivalay, Gandhinagar
PS to Secretary (Home), Home Department, Sachivalay, Gandhinagar
Joint Secretary (Law & Order), Home Department, Sachivalay, Gandhinagar
Under Secretary (Law & Order), Home Department, Sachivalay, Gandhinagar
Director General of Police and Inspector General of Police, GS., Gandhinagar
Director General of Police & Inspector General of Prisons, GS., Ahmedabad
Addl. Director General of Police (Law & Order), GS., Gandhinagar
Addl. Director General of Police, CID (Crime & Rlys.) GS., Gandhinagar

Inspector General of Police (Operation), ATS, GS., Ahmedabad
All Range Police Officer
All Police Commissioner
All District Police Superintendent
All Superintendent of Central/District/Sub/Special Jail (Through IG Prisons)
Section Officer, SB-V Branch, Home Department, Sachivalaya, Gandhinagar.
Section officer Select File
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