

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001.

No.HHC/VIG/Uder Trial/Instructions/01-I- 34217
Dated Shimla the 5th December 2013.

From

The Registrar (Insp., Confd. & Budget),
High Court of Himachal Pradesh,
Shimla.

To

All the District & Sessions Judges
In Himachal Pradesh.
Subject: Use of Section 436-A of the Cr.P.C. to reduce overcrowding
of prisons - To constitute Review Committees thereof.

Sir,

It is to bring to your kind notice that the Government of India,
Ministry of Home Affairs (CS Division), New Delhi, vide letter No.V-
13013/70/2012-IS(VI), dated the 17th January, 2013 (copy enclosed) while
intimating insertion of a new section 436-A in Section 436 Cr.P.C., has
required to constitute a Review Committee in every district with the District
Judge as Chairman and the District Magistrate and District Superintendent
of Police as members in order to meet every three months and review the
cases relating to under-trials to reduce overcrowding of prisoners.

Therefore, I have been directed to request you to constitute
a Review Committee in your respective Division/District and to hold its
meeting once in every three months and review the cases relating to
under-trials as also for applying the provisions of Section 436-A Cr.P.C.,
regularly in future.

The above instructions may be complied in letter and spirit
and any deviation thereof shall be viewed seriously.

Please acknowledge receipt of this communication.

Yours faithfully,

(Sureshwar Thakur)

Registrar (Insp., Confd. & Budget),

Encls: As above

Endst.No.HHC/VIG/Uder-Trial/Instructions/01-I- 34218-24 Dated:-05.12.2013.

Copy forwarded for information to:-

1. The Principal Private Secretary to Hon'ble the Chief Justice.

Contd... 2/-

No. V-13013/70/2012-IS(VI)
Government of India
Ministry of Home Affairs
(CS Division)

5th Floor, NDCC-II Building
Jai Singh Road, New Delhi
the 17th January 2013

To

The Home Secretaries
of all States/UTs

Sub: Use of Section 436A of the Cr.P.C to reduce overcrowding of prisons.

Sir/Ma'am,

The State Governments and Union Territories have been requested to adopt various measures related to reduction in overcrowding an advisory dated 9th May 2011¹ of the Ministry of Home Affairs. One of the initiatives taken by the Government of India has been the amendment of section 436 in the Cr.P.C. through the Criminal Procedure Code Amendment Act 2005 and the insertion of a new section 436A. The section 436A is reproduced below:

436A. Maximum period for which an undertrial prisoner can be detained – Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death 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 his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation. – In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded”

¹ <http://mha.nic.in/pdfs/PrisonAdvisories-1011.pdf>

