

**MINUTES OF THE MEETING OF THE HIGH POWERED COMMITTEE HELD
ON 1st JUNE, 2023 IN THE OFFICE OF SIKKIM SLSA**

A meeting of the High Powered Committed chaired by Hon'ble Chairperson, High Powered Committee was held on 01.06.2023 (*Thursday*) in the office of Sikkim State Legal Services Authority at 02:00 p.m.

The meeting commenced with Welcome Address delivered by Mr. Sonam Topgay Tashi, Additional Secretary, Home (Confidential), Home Department, Government of Sikkim & Member Secretary, High Powered Committee.

Thereafter, the Hon'ble Chairperson, High Powered Committee apprised the members that the Committee was formed in pursuance to the order of the Hon'ble Supreme Court of India dated 23.03.2020 *in Suo Motu Writ Petition (C) No. 1/2020 In Re: Contagion Of Covid 19 Virus In Prisons in Re Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700* and vide Notification No.21/Home/2020, dated 30.03.2020, issued by the Home Department, Government of Sikkim, to consider the release of prisoners who have been convicted or are under-trial and determine the category of prisoners required to be released depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.

AGENDA ITEMS

Item Agenda No. 1 : Confirmation of the Minutes of the Meeting of the High Powered Committee which was scheduled on 23rd February, 2023 and passed by way of circulation.

The minutes of the meeting held on 23rd February, 2023, is approved and confirmed.

Item Agenda No. 2 : Decongestion of Jails

The Additional Chief Secretary, Home Department, informed that possibility is being explored for vertical extension of C & D Cells in the District Prison, Boomtar. It was further informed that the Buildings & Housing Department, Government of Sikkim is in communication with the Mines & Geology Department, Government of Sikkim for soil testing report from their end, and, in turn will apprise the status to the Home Department.

It was also informed by the Additional Superintendent of Prison, District Prison, Boomtar that the vertical extension will measure approximately 15 ft x 12 ft and the two floors will be housing in total twenty UTPs.

With regard to the vertical extension of the existing barracks at the State Central Prison, Rongyek, it was informed by the Deputy Inspector General, State Central Prison that the vertical extension of Barrack No. 3 has been completed and the vertical extensions of the remaining Barracks are on the verge of completion. It was suggested

that due to low manpower and security reasons, it is advisable if all the structures are handed over to the State Central Prison, Rongyek by the Buildings & Housing Department at one go.

RESOLVED:

It was resolved that the Additional Chief Secretary, Home Department will ensure that the soil testing and other ground works are completed within a period of three weeks and the latest status report with regard to the vertical extensions of C & D Cells in the District Prison, Boomtar to be furnished by end of July, 2023.

It was further resolved that the Deputy Inspector General, State Central Prison will ensure that the vertical extensions of the barracks are completed within a period of one month.

(a) To consider Convicts who have undergone their sentence or are entitled to remission/suspension/commutation of sentence under Sections 432 and 432A of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C.") and Furlough in terms of the Sikkim Prison Manual;

(I) The State Central Prison, Rongyek, East Sikkim : **NIL**

(II) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

(b) *To consider UTPs released on Bail by the Court, but unable to furnish sureties;*

STATE CENTRAL PRISON, RONGYEK : 09

Sl. No.	Name of the UTP	Admitted in Prison on	Charges framed under Section
1.	Nima Sherpa	30.07.2017	307/120B IPC 1860 r/w sec. 27 Arms Act 1959
2.	Suk Raj Gurung	09.01.2021	302/392 IPC 1860
3.	Palden Bhutia @Pema Bhutia	15.09.2021	7/9/14 of SADA, 2006 read with Section 9(1)(b) of SADA Act 2017 read with Sections 22/27 NDPS Act, 1985
4.	Deepak Kumar @Deepak Pariyar	19.03.2022	363/366 IPC 1860
5.	Saroj Chettri	25.04.2022	380/457 IPC 1860
6.	Arun Kumar Sahani	28.05.2022	454/380 IPC 1860
7.	Narbu Sherpa	25.06.2022	7/9/14 of SADA, 2006 read with Section 9(1)(c) of SAD Amendment Act, 2017 & Section 34 of IPC 1860
8.	Dawa Tshering Tamang	04.10.2022	326 IPC, 1860
9.	Dhan Raj Rai @Kumba	17.12.2022	302/211/34 IPC, 1860

B. DISTRICT PRISON, BOOMTAR, NAMCHI, SOUTH SIKKIM : 01

Sl. No.	Name of the UTP	P.S. case no.	Charges framed under Section
1.	Kishore Rai	Melli PS Case No. 33/2021	354 IPC r/w 7/8 of POCSO Act, 2012

**pursuant to the meeting of the HPC held on 23.02.2023, this Authority vide letter bearing No. 4344/SLSA dated 03.04.2023 had requested the Health & Family Welfare Department to give a detailed report on the mental condition of UTP Kishore Rai. In pursuance thereof, the District Prison, Boomtar vide letter bearing No. 102/ASP/DPN/S dated 12.05.2023, has stated that the UTP has been discharged from STNM Hospital on 11.05.2023 and has forwarded the medical report of the UTP. As per the medical report the said the UTP is able to understand the nature of the proceedings before the Court and is asymptomatic at present.*

RESOLVED:

It was resolved that the Panel Advocates will extend their services to the above UTPs and assess the reasons behind non-furnishing of sureties and take necessary steps.

c) To consider release of UTPs booked under compoundable offences:

- (I) The State Central Prison, Rongyek, East Sikkim : NIL
- (II) The District Prison, Boomtar, Namchi, South Sikkim : NIL

d) To consider release of UTPs covered under Sections 436 and 436A of the Cr.P.C.:

- (I) The State Central Prison, Rongyek, East Sikkim : NIL
- (II) The District Prison, Boomtar, Namchi, South Sikkim : NIL

- e) To consider release of UTPs who may be covered under Section 3 of the Probation of Offenders Act, 1958, namely, accused of offence under Sections 379, 380, 381, 404, 420 of the Indian Penal Code or alleged to be an offence not more than 2 years imprisonment:
- (I) The State Central Prison, Rongyek, East Sikkim : NIL
- (II) The District Prison, Boomtar, Namchi, South Sikkim : NIL
- f) To consider UTPs eligible to be released on bail under Section 167 of the Cr.P.C. and under Section 167(2)(a)(i) and (ii) of the Cr.P.C. read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (where persons accused of Section 19 or Section 24 or Section 27A or for offences involving commercial quantity) where investigation is not completed in 60/90/180 days.

STATE CENTRAL PRISON, RONGYEK, EAST SIKKIM: 03

Sl. No.	Name of the UTP	Admitted in Prison on	Charges framed under Section	Remarks
1.	Dawa Dorjee Tamang@Pumba	31.12.2022	325/341/392/34 IPC, 1860	The UTP has been granted bail on 11.04.2023, however, he is still in custody due to non-furnishing of surety.
2.	Ruben Rai	31.12.2022	325/341/392/34 IPC, 1860	The UTP has been granted bail on 11.04.2023, however, he is still in custody due to non-furnishing of surety
3.	Sikander Masumali Chaudhari	15.03.2023	419/420/120-B IPC, 1860 read with Sections 66(C) and 66(D) of IT Act	The UTP has been granted bail on 01.05.2023, however, he is still in custody due to non-furnishing of surety

RESOLVED:

It was resolved that the Panel Advocates will extend their services to the above UTPs and assess the reasons behind non-furnishing of sureties and take necessary steps.

g) To consider release of UTPs who are imprisoned for offences which carry a maximum punishment of 2 years:

- (I) The State Central Prison, Rongyek, East Sikkim : **NIL**
- (II) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

h) To consider release of vulnerable UTPs who are sick or infirm and require specialized medical treatment:

- (I) The State Central Prison, Rongyek, East Sikkim : **NIL**
- (II) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

i) To consider release of UTPs who are women;

- (I) The State Central Prison, Rongyek, East Sikkim : **NIL**
- (II) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

- j) To consider release of UTPs who are first time offenders between the ages of 19 and 21 and in custody for offences punishable with less than 7 years of imprisonment and have suffered at least 1/4th of the maximum sentence prescribed;**

There are no UTPs who can be considered for bail as per the above criteria, hence:-

- (I) The State Central Prison, Rongyek, East Sikkim : **NIL**
- (II) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

- k) To consider release of UTPs who are of unsound mind;**

- (I) The State Central Prison, Rongyek, East Sikkim : **NIL**
- (I) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

- l) To consider UTPs eligible for release under Section 437(6) of the Cr.P.C, wherein in a case triable by a Magistrate, the trial of a person accused of any non-bailable offence has not been concluded within a period of 60 days from the first date fixed for taking evidence in the case;**

- (I) The State Central Prison, Rongyek, East Sikkim : **NIL**
- (II) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

- m) To consider release of UTPs detained under Sections 107, 108, 109, 151 of the Cr.P.C.;**

- (I) The State Central Prison, Rongyek, East Sikkim : **NIL**
- (II) The District Prison, Boomtar, Namchi, South Sikkim : **NIL**

Item Agenda No. 3 : UTPs and Convicts with Covid-19 in the State Central Prison, Rongyek, East Sikkim and District Prison, Boomtar, Namchi, South Sikkim and availability of medical facilities and treatment.

Vide email dated 29.05.2023 received from State Central Prison, Rongyek and 111/ASP/DPN/S dated 29.05.2023, received from District Prison, Boomtar, it has been informed that medical clinics are established in both the prisons and required medical facilities are available. No UTPs or Convicts in either of the Prisons are suffering from COVID-19 as of now.

Item Agenda No. 4 : Continuation of sanitization and maintenance of hygiene and cleanliness in the State Central Prison, Rongyek, East Sikkim and District Prison, Boomtar, Namchi, South Sikkim.

Vide email dated 29.05.2023 received from State Central Prison, Rongyek and 111/ASP/DPN/S dated 29.05.2023, received from District Prison, Boomtar, it has been informed that sanitization is being carried out at the two Prisons on fortnightly basis and maintenance of hygiene and cleanliness is being carried out on regular basis as per COVID-19 protocol.

Item Agenda No. 5 : Number of new UTPs since 23.02.2023 and the latest vaccination position of UTPs, Convicts, Officers and staff at the State Central Prison, Rongyek, East Sikkim and District Prison, Boomtar, Namchi, South Sikkim.

Vide email dated 29.05.2023 received from State Central Prison, Rongyek and 111/ASP/DPN/S dated 29.05.2023, received from District Prison, Boomtar, it has been informed that at the State Central Prison there are 56 new UTPs and at the District Prison there are 58 new UTPs admitted after the meeting of the High Powered Committee held on 23.02.2023.

Further, at the State Central Prison there are 18 (*eighteen*) UTPs who have not been administered precautionary dose of COVID-19 vaccine, 10 (*ten*) UTPs who have not been administered second dose of vaccine as they have not yet completed the time period for vaccination as stipulated by the COVID-19 vaccination guidelines and 04 (*four*) UTPs who have not been administered first dose of vaccine.

As informed by the Prison Authorities telephonically on 29.05.2023, the four UTPs were admitted on 07.04.2023, 24.04.2023, 27.04.2023 and 20.05.2023 and had not taken the first dose vaccine. Currently they cannot be vaccinated due to non-availability of vaccine as informed by Dr. Nitin Deokota, Nodal Officer for COVID-19 vaccinations. However, as and when vaccines are received by the Health Department, the same shall be expedited.

At the District Prison, Boomtar there are 87 (*eighty-seven*) UTPs who have been fully vaccinated, 03 (*three*) UTPs who have been given first dose of the vaccination and 01 (*one*) UTP who has

not been vaccinated yet due to non-availability of vaccine in the District Prison.

They have also mentioned that all Officers and staff of the State Central Prison, Rongyek and District Prison, Boomtar have been fully vaccinated and have also been given the Precautionary dose of COVID - 19.

It was informed by the Deputy Inspector General, State Central Prison, Rongyek and Additional Superintendent of Prison, District Prison, Boomtar that they are in touch with the Health & Family Welfare Department with regard to availability of the vaccine.

RESOLVED:

It was resolved that the Health & Family Welfare Department be requested to make available the vaccines at the two Prisons on priority basis and prevent the outbreak of COVID-19 at the prisons.

Item Agenda No. 6 : Present mode of production of UTPs before Courts and continuation of Video Conference for remand.

Vide email dated 29.05.2023 received from State Central Prison, Rongyek and 111/ASP/DPN/S dated 29.05.2023, received from District Prison, Boomtar, it has been informed that all the UTPs required to be produced only for remand to various Learned Courts are being produced through Video Conferencing. Rest in all trial matters the UTPs are being produced physically.

Item Agenda No. 7: Steps taken for and progress of counselling of UTPs and Convicts by Psychologists and Psychiatrists at the State Central Prison, Rongyek, East Sikkim and District Prison, Boomtar, Namchi, South Sikkim (UTPs, convicts under SADA and UTPs, convicts with mental illness, other UTPs and convicts in need of counselling;

Vide email dated 29.05.2023 received from State Central Prison, Rongyek and 111/ASP/DPN/S dated 29.05.2023, received from District Prison, Boomtar, it has been informed that at the State Central Prison, Psychiatrist and Clinical Psychologist are visiting State Central Prison, Rongyek on a fortnightly basis and UTPs and Convicts under SADA/NDPS are given counseling for 2 days in a week physically as well as through virtual mode by Serenity Home, Burtuk, Sikkim.

While at the District Prison, Boomtar, Psychiatrist from STNM Hospital and Clinical Psychologist from the District Hospital, Namchi are visiting the Prison on fortnightly basis and weekly counseling programmes (*on virtual mode*) on SADA/NDPS are being conducted for the inmates by Serenity Home, Burtuk, Sikkim under the aegis of Sikkim SLISA.

Hon'ble Chairperson informed that the aforementioned sittings can be increased, if required and the prison authorities were requested to intimate the Sikkim SLISA in case such need arises.

It was also informed by the Hon'ble Chairperson, High Powered Committee that distressed UTPs and Convicts can seek help by calling on the *24x7 Crisis Centre-cum-Suicide Prevention helpline number "18003453225 and 03592-202111"*. The prison authorities were requested to ensure that the UTPs and Convicts have access to the helpline number..

Item Agenda No. 8 : Any other item(s) with the permission of the Chair.

- a) For placing the matter pertaining to the order dated 24.03.2023 passed by the Hon'ble Supreme Court of India in *I.A. No. 179931/2022, In Re: Contagion for COVID-19 Virus in Prison, Sua Motu Writ Petitions (C) No. 01/2020*, before the High Powered Committee.

The directions contained in the judgment dated 24.03.2023 passed by the Hon'ble Supreme Court of India in *I.A. No. 179931/2022, In Re: Contagion for COVID-19 Virus in Prison, Sua Motu Writ Petitions (C) No. 01/2020*, was apprised to the members of the High Powered Committee and it was found that there are no steps that are required to be taken by High Powered Committee as per the order.

b) Additional Officers above the rank of Sub-Inspector is required to be posted at the State Central Prison, Rongyek and District Prison, Boomtar.

The Additional Chief Secretary, Home Department informed that at present there is a vacancy of 81 Warders in the two Prisons (*State Central Prison and District Prison*). The matter is currently pending with the Planning Department, Government of Sikkim and once concurrence is received from the Planning Department, such vacancies will be subsequently filled up. It was also informed that necessary steps are being taken by the State Government for posting of newly promoted Deputy Superintendent of Police Officers in the two prisons.

The meeting concluded with Vote of Thanks proposed by the Member Secretary, High Powered Committee, to the Chair of the High Powered Committee.

The next meeting of the High Powered Committee will be intimated in due course of time.

Sd/-
(Justice Meenakshi Madan Rai)
Judge, High Court of Sikkim
and Executive Chairperson,
Sikkim State Legal Services Authority,
Chairperson, High Powered Committee

Sd/-
(A Sudhakar Rao, IPS)
Additional Chief Secretary,
Home Department, Government of Sikkim,
Member, High Powered Committee

Sd/-
(Subarna Rai)
Member Secretary,
Sikkim State Legal Services Authority

Sd/-
(Sharab Tonyot)
Deputy Inspector General of Police,
State Central Prison, Rongyek,
Member, High Powered Committee

Sd/-
(Sonam Topgay Tashi)
Additional Secretary, Home (Confidential),
Home Department, Government of Sikkim
Member Secretary, High Powered Committee

Sd/-
(Bijoy Subba)
Additional Superintendent of Prison,
District Prison, Boomtar,
Member, High Powered Committee