APPENDIX- 15

Uttar Pradesh Prisoners (Attendance in Courts) Rules, 1956

Home Department (Jails)

No. 4764/XXII-841-1955

Dated Lucknow, December 28, 1955

In supersession of all the rules and orders on the subject and in exercise of the powers conferred by section 9 of the Prisoners (Attendance in Courts) Act, 1955 (Act No. 32 of 1955), the Governor, Uttar Pradesh is pleased to make the following rules:

RULES

1. These rules may be called the Uttar Pradesh Prisoners (Attendance in Courts) Rules, 1956 and shall come into force from January, 1, 1956.

2.In these rules, unless there is anything repugnant in the subject or context-

(i) the 'Act' means the Prisoners (Attendance in Courts) Act, 1955;
(ii) the 'Superintendent of Prison' means the officer in charge of prison: and
(iii) the 'State Government' means the Government of Uttar Pradesh.

3.Procedure for obtaining counter-signature of an order under section 3

Every order submitted to the district magistrate or the district judge for counter-signature under sub-section (3) of section 3 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 by, may, after considering such statement, countersign the order or decline to countersign it.

4. **How a declaration that a person confined in prison unfit to be removed is to be made**.-

Where 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 Prison in which he is confined shall apply to the district magistrate within the local limits of whose jurisdiction the prison is situate, and if such magistrate by writing under his hand, declares himself to be opinion that the person named in the order is unfit to be removed for reason mentioned in section 6, the Superintendent of the Prison may abstain from carrying out the order and shall send to the court from which the orders had been issued a statement of reasons for so abstaining.

5. **How a process is to be served on a prisoner**.- 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 deposing with him a copy thereof.

6. **Process served to be transmitted at prisoner's request**.- (1) Every Superintendent of Prison upon whom service is made under rules shall, 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 endorsementon the process and sign a certificate to the effect that such person asaforesaid is confined in the prison under his charge and that he has been shown and explained thecontents of the process.

(2) Such certificate 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 and provides the cost of sending it by post, 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**.- The duty of escorting prisoners to and from the court in which their attendance is required shall be performed by the Police.

8. The strength of the escort shall be as follows on ordinary occasions :

STRENGTH

Number of Prisoners .	Constables	Head constables
1 to 3 prisoners.	2	..
4 to 6 prisoners.	3	..
7 to 10 prisoners.	4	1
11 to 15 prisoners. 5	2	
16 to 25 prisoners. 8	2	
26 to 50 prisoners. 10	3	

Provided that when under trial prisoners are excused from wearing handcuffs the strength of their escort shall be two constables for each under trial prisoners 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 notorious criminal, a special guard as may be prescribed shall be supplied.

9. In escorting prisoners by road the escort commander shall-

(1) keep all prisoners under his charge together in one 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 authorized; and

(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 or security.

10. The handcuffing and fettering of convicted prisoners and under trial prisoners while traveling by rail or road shall be regulated as below:

A- Convicted Prisoners

(a) Handcuffs.-Handcuffs shall be imposed on convicted prisoners when traveling 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 by 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 therefor shall be recorded in writing by the senior police officer at headquarters:

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

(b) *Fetter*:

(1) Convicts in the superior class who have been sentenced to not more than two years rigorous imprisonment, shall, when traveling by rail or road, wear neither fetters nor cross-bars unless the Superintendent of Police for special reasons, to be recorded in writing, requires the imposition of the either or the both. Such prisoners may be allowed to wear their own clothes in transit if they so desire.

(2) When traveling by rail or road other convicts when convicted of any of the offences specified below shall wear fetters and, if considered necessary either by the Superintendent of Jail or the Superintendent of Police, cross-bars also.

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 or cross-bars.

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

B- Undertiral 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 undertrrial 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 shown in the following Schedule shall not be handcuffed when in transit by rail or road or from or to courts 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 all undertrial prisoners charged with offences other than those specified below, shall be handcuffed when in transit if there is reasonable ground for apprehension that handcuffs are necessary to prevent escape, violence or suicide:

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

Indian Penal Code.- Chapters V-A, VI and VIII, sections 153- A to 160 Chapter IX except sections 170 and 171, Chapters IX-A and X, Chapter XI except sections 216 A, 224, 225, 225B, and 226, Chapters XIII, XIV and XV, sections 312 to 316, 323, 334 to 338, 341 to 352, 355 to 358, 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 Acts- 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 prisoners 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 undertial 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 of suicide, where handcuffs are imposed, reasons therefor shall be recorded in writing by the senior police officer at headquarters.

11. The public prosecutor shall arrange for the production of undertrial prisoners before courts on the proper dates, and for their safe escort to and from the courts. When the attendance of undertrial prisoners is required at courts he shall send to the Superintendent of Jail concerned a list of such prisoners and shall give clear directions on the list as to which prisoners are in his opinion to be handcuffed or fettered or both, and whether cross-bars are also necessary in any case. The public prosecutor shall also determine the strength of the escort with reference to the scale given in rule 8 above and with due regard to the character of the prisoners and the number of courts in which they are to be produced. The public prosecutor shall apply to the reserve inspector for the necessary number of police. Where he considers that the escort should be wholly or partly armed with muskets, he shall obtain the orders of the Superintendent of Police, or in his absence, of the senior police, officer at headquarters.

12. The public prosecutor shall furnish the escort commander with two copies of the list of prisoners in the prescribed police

form No. 278 or, if possible he shall also send one copy to the Superintendent of Jail on the evening preceding the day on which the prisoners are required. The escort commander after making the search of the prisoners and satisfying himself that the directions with regard to fetters, etc. have been carried out and also personally complying with the directions with regard to handcuffs, etc. shall sign one copy of the list which shall be retained by the jail authorities concerned.

13- Form the time of the delivery of the prisoners the responsibility for their safe custody shall rest with the escort commander unit their return to the jail and endorsement by the jailor of a certificate on the list to the effect that the prisoners have returned in security to the jail or have not returned owing to good and sufficient cause. The public prosecutor shall make such additions and alterations as may be necessary in the list before the prisoners are returned to jail.

14-Prisoners whom it is necessary to handcuff shall be handcuffed before leaving the jail. The handcuffs shall not be removed except when the prisoners are before the court or confined in a place of security.

15 Convicted prisoners and undertrial prisoners in the court of 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 escort commander from the jail before departure. When prisoners in a weak state of health have to be provided with conveyance, a doli may or ordinarily be provided for such prisoners.

The escort commander in charge of the prisoners shall be responsible subject to the orders of themagistrate, for their protection from the weather and for their transport and food.

16. Prisoners shall be escorted to the courts and back again to the jail by the nearest route, but as far as possible, bazaars and crowded thoroughfares should be avoided.

17. When female prisoners are produced in courts, they shall not be sent along with the ordinary havalatguard; separate guard shall be provided.

18. Where jails are situate at a distance from courts prisoners will ordinarily be conveyed to and from courts in Government vehicles, unless it is not possible to supply such a conveyance.

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 public prosecutor to do so provide suitable arrangement can conveniently be made.

19.All prisoners whose cases have been disposed of and who have to be sent back to the jail shall, as far as may be possible, be sent there without being kept waiting for others.

20.The public prosecutor shall apply to the reserve inspector for an additionalguard, if the guard in attendance is not sufficient.

21. In the case of prisoners whose testimony is required in criminal trials the charges on account of the dieting of the prisoners during their retention in the custody of the police guard, or on account of any traveling expenses incurred by the guard for their own journey or for that of the prisoners to or from the court concerned will be defrayed by the Police Department. 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 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 herein-after lade down in the case of civil suits; if of examination of the said prisoner the court is of the opinion that his evidence was not required in the interest of 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 instructions to be issued by the Inspector-General of Police with the sanction of the State Government.

22.Deposits of costs- In civil suits the court 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 costs shall be demanded from pauper judgment-debtors in jail who have applied to be declared insolvent under section 6 of the provincial insolvency Act, 1920, and whose attendance is required by a civil court at its own instance for examination under section 14 of the said Act, or when the court is satisfied that the parties that the parties to the suit are absolutely unable to pay.

Such costs shall be calculated as follows:

(a) Conveyance by rail or road .. Actual charges as in rule 21.

(b) Diet .. Annas 8 per day when escorting in the plains and Annas 12 when escorting in the hill tracts.

Police Escort.

Travelling and daily allowance……..

Pay of escort…….

day.

According to rules 23 and 27 of the financial Handbook, Volume III.

According to paragraph 158 of the Office Manual

in which the rates are as follows : Inspectors Rs. 12 perday, Sub-Inspectors, Rs. 8/- perday,Head constables Rs. 5 per day, Constables Rs. 3 per

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

23. The above rules 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:

Provided that in both classes of cases aforesaid the Police Department shall bear the charges of dieting the prisoners and of conveying them to and from the courts, which require their presence.